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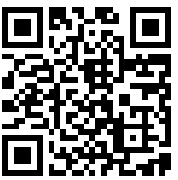

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Parliamentary History.

VOL. XXVI.

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THE

Parliamentary History

OF

ENGLAND,

FROM

THE EARLIEST PERIOD

TO

THE YEAR

1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED,

"THE PARLIAMENTARY DEBATES."

VOL. XXVI.

COMPRISING THE PERIOD

FROM THE FIFTEENTH OF MAY

1786,

TO THE EIGHTH OF FEBRUARY

1788.

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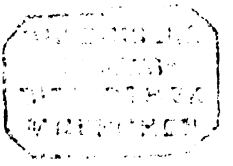

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1776.	- - - - - - - - York	William Markham.

Bishops.

1769.	Bishop of St. Asaph	Jonathan Shipley.
1783.	- - - - - Bangor.....	John Warren.
1774.	- - - - - Bath and Wells	Charles Moss.
1785.	- - - - - Bristol	Christopher Wilson.
1754.	- - - - - Chichester	Sir William Ashburnham, bart.
1781.	- - - - - Coventry and Litchfield	Hon. James Cornwallis.

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Bishops continued.]

1783.	St. David's	Edward Smallwell.
1781.	Ely	Hon. James Yorke.
1778.	Exeter	John Ross.
1781.	Gloucester	Samuel Halifax.
1787.	Hereford	Hon. John Harley.
1782.	Landaff	Richard Watson.
1787.	Lincoln	George Prettyman Tomline.
1787.	London	Bealby Porteus.
1785.	Norwich	Lewis Bagot.
1777.	Oxford	John Butler.
1769.	Peterborough	John Hinchcliffe.
1774.	Rochester	John Thomas.
1782.	Salisbury	Hon. Shute Barrington.
1781.	Winchester	Brownlow North.
1781.	Worcester	Richard Hurd.
1787.	Carlisle	John Douglas.
1787.	Chester	William Cleaver.
1787.	Durham	Thomas Thurlow.

LORD HIGH CHANCELLOR.

1783. Edward, Lord Thurlow.

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1783. Dec. 23. Thomas, Lord Sydney.
Francis, Marquis of Carmarthen.

SPEAKER OF THE HOUSE OF COMMONS.

1780. Oct. 31. Charles Wolfran Cornwall, esq.

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1786. Sept. 16. Right Hon. William Pitt, and Chancellor of the Exchequer.
James, Marquis of Graham.
Hon. Edward James Elliot.
Sir John Aubrey, bart.
Richard, Earl of Mornington.

MASTER OF THE ROLLS.

1784. Mar. 27. Sir Lloyd Kenyon, bart. afterwards Lord Kenyon.

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ATTORNEY GENERAL.

1784. Mar. 30. Richard Pepper Arden, esq.

SOLICITOR GENERAL.

1784. April 7. Archibald Macdonald, esq.

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1784. Ilay Campbell, esq.

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1783. Dec. Sir George Yonge, bart.

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Parliamentary History.

26 GEORGE THE THIRD, A. D. 1786.

THIRD SESSION OF THE SIXTEENTH PARLIAMENT OF GREAT BRITAIN.

[*Continued from Vol. XXV.*]

DEBATE in the Commons on the County Election Bill.] May 15, 1786. On the order of the day for going into a Committee on the Bill for the better securing the Rights of Voters at County Elections,

Mr. *W. W. Grenville* observed, that could he have conceived the Bill would in the least facilitate any one of those objects which the noble framer (earl Stanhope) had in view, he should certainly have given it his support; but being perfectly convinced that it tended to a very different effect, he must object to its being proceeded in any farther. So far from securing the rights of election to freeholders, the Bill tended rather to annihilate their existing rights, and to deprive them of their votes. A Bill similar to the present had been passed in the parliament of Ireland in the course of the last session; and such had appeared likely to have been its operation and effect, that had any vacancy for a county member happened, there would not have been a single voter qualified to have voted for the candidate who offered to fill the vacancy. He understood, therefore, that the very first act of the Irish Parliament in the present session, had been to pass a Bill to suspend the operation of their act of the preceding session. He spoke of this fact under some degree of doubt; but he believed it would, upon inquiry, be found to be as he had stated. Certain he was, that if the present Bill passed into a law, there could not happen a vacancy in which, in all human probability, a great many of the freeholders would not find themselves disqualified. The Bill enacted, that no freeholder should have a right to vote who did not enter his freehold in a register to be kept for that purpose; and that a certain, but, he was ready to admit, a very moderate expense was to be incurred by so doing. To both of these regulations he strongly objected, because he was persuaded few of the free and independent mass of freeholders, whom undoubtedly that House must look to as the properest description of freeholders to send representatives to parliament, would be sufficiently careful to enter their freeholds in the register, and because any expense whatever was in his mind exceedingly wrong to be imposed on the poorer part of freeholders. If the Bill passed, in all probability those freeholders only who were in the interest of some great and overbearing power which influenced the county, would be taken care of to make them enter their freeholds, while the freeholders in the interest of favourite characters, and the larger description of independent freeholders in no particular interest, but who consulted their own judgment as to who was the fittest person to represent them, would not one half of them think of entering their freeholds, and thus they would, on an election taking place, find themselves unexpectedly disqualified. The operation of the Bill consequently would be, that the great and overbearing county interests must prove strengthened, and all the other interests weakened, so that instead of encouraging men of moderate fortunes to stand the

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chance of an election, they would be deterred from it, and the returns would lay where undoubtedly they ought least to rest. The votes of freeholders appeared much better secured as the law stood at present, by being assessed by the land-tax assessors, and appearing upon their returns. He must, therefore, object to the Speaker's leaving the chair.

Mr. *Pitt* remarked, that were he not convinced of the excellence of the Bill, the opinion of his right hon. friend would weigh very considerably with him against it, and his argument still more; he was however decided in his sentiments, that so far from having the tendency of excluding from the power of voting those who were entitled to vote, and of increasing the expense of elections, it would operate in a directly opposite way. It would confine the election to those only who were entitled to vote, except such as by their negligence in registering their freeholds shewed themselves unworthy of that privilege, and would, in his opinion, very much diminish the expense of the election. Thus, all the faults to be found in the most unobjectionable part of the constitution of the House of Commons (the county representation) would be effectually remedied; a blessing which he hoped the country would one time or other be able to obtain in every other department of the representation.

Mr. *Duncombe* said, that he deemed it a very good bill; and being persuaded that it would have an excellent effect in large counties, he should certainly give it his support. A former Bill of this nature has by no means answered the purpose which the hon. gentleman (Mr. Powys) had doubtless meant to effect by it.

Mr. *Powys* entered into a few observations to mark the distinction between his Bill and that under consideration. His Bill was meant as a mere index to the votes of freeholders, by obliging the land-tax assessors to return the freeholds in their respective districts; whereas the noble earl's Bill professed to register them, and contained some very complicated provisions for the purpose, making each voter his own scrutineer. He thought the Bill extremely inadequate to its effect; but if the hon. gentleman who had now taken the charge of it, would say, that he meant no more by going into the committee than to amend it as much as possible, and then let it go forth to the consideration of the country at large, he would not object to the Speaker's leaving the chair; but if the hon. gentleman intended to go into a committee, with a view to the passing the Bill into a law that session, he certainly would oppose the motion.

Sir *Joseph Mawbey* commended the Bill, and said, that in Surrey he was persuaded its operation would be extremely beneficial.

Mr. *Bastard* described the Bill as a collection of clauses, each of which alternately contradicted the principle laid down in the clause preceding it; indeed, it contained so much extraordinary matter, that he could not imagine its operation would be attended with any beneficial consequences.

Sir *W. Dolben* contended, that the present Bill went to a great object, the attainment of which must be extremely desirable; for what could be more so than the securing the rights of voters, and the putting a stop to the ruinous expense of county elections? He admitted that the Bill, as it stood at present, was incorrect; but when he saw the great abilities which were likely to be exerted upon amending it, he had no doubt but that if it was suffered to go into a committee, it would come out so improved, that all the objections to it would be done away.

Sir *G. P. Turner* observed, that he had formerly supported the Bill; but having heard two of his friends, the representatives of large counties, who must be the best judges of the subject, declare it would not answer the end, he had so much confidence in their superior knowledge, that he would vote against the Speaker's leaving the chair.

The Earl of *Surrey* declared, he rose with a full conviction of the necessity of the Bill going into the committee, that gentlemen who had started objections might be apprised of the checks and guards against the operation of those objections that were meant to be put in the Bill. He appealed to the candour and liberality of the House, whether, if means could be hit upon to prevent gentlemen, of large fortunes even, from wasting those fortunes in county elections, those means ought not to be resorted to, and those elections placed upon that footing of freedom and small expenditure which would encourage men of moderate fortunes, but independent principles, to stand for counties without risk of ruin.

The House divided on the question, that the Speaker do now leave the chair.

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Tellers.

Yeas	Sir J. Mawbey Mr. Steele	98
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The House then went into the Committee.

Debate in the Commons on the Bill to explain the Hawkers and Pedlars Act.] May 16. The order of the day being read for the second reading of the Bill to explain and amend the Act of the last session relative to Hawkers and Pedlars,

Mr. *Popham* reminded the House, that a heavy tax had last year been imposed on shopkeepers, and that at the time it had been held out to them that the hawkers and pedlars should be abolished; but that afterwards that measure was changed, and the House had thought that, as hawkers and pedlars were men liable to no local assessments, nor contributing in any proportionable degree to the exigencies of the state, they were fair objects of taxation and restriction. Upon this the House had proceeded in their Act of the last session, and therefore the faith of Parliament was pledged, that the hawkers and pedlars should remain under the restrictions then imposed. He concluded by moving, That the second reading be put off until that day three months.

Mr. *J. H. Browne* described the hawkers and pedlars as an honest, industrious, and useful description of people. There were some thousand acres of the county of Stafford, which the hawkers and pedlars had cultivated, and converted from a barren and wild spot to a rich and fertile circuit. They had there given the strongest proofs of their industry, their peaceable disposition, and their aptness for civil society; why, therefore, should so laudable a set of men be singled out for severity? He had heard nothing urged against them but ungrounded suspicions, upon which alone the Legislature surely ought not to rest any measures of an injurious tendency. He saw no reason why it should be imagined that hawkers and pedlars were more addicted to smuggling than shopkeepers. The latter could surely better conceal smuggled goods in their shops and houses than a pedlar, who carried all his goods on his back. He denied that the faith of Parliament had been pledged to the shopkeepers, that the Act of the last year should remain in full force, and asked, where would be the justice of inflicting unmerited restrictions on one set of men by way of *douceur* to another? He particularly adverted to the two clauses which the Bill went to repeal; and said, that only three or four counties had enforced the clause empowering magistrates to suppress hawkers and pedlars, and to oblige them to keep without the district of the county. It was fair, therefore, to conclude, that as thirty-six or thirty-seven counties had forborne to put that severe clause in execution, the extreme arbitrariness of it had carried conviction to them, that it ought not to be enforced. An honest employment was as much a man's property as his estate; and competition was the heart and soul of trade. It was universally admitted to be true policy to encourage competition as much as possible; upon that principle, therefore, it would be wise to let the present Bill pass into a law.

Lord *Mulgrave* was fully aware that competition was the soul of trade; but then he wished always for a fair and equal competition, and not to suffer a hawker and a pedlar, who was not liable to local assessment, and contributed little or nothing either to parochial or government taxes, to carry his goods to market under those advantages, to undersell the resident shopkeeper, who paid many very heavy taxes of both kinds. If the hawkers and pedlars deserved the high character given them for industry and knowledge of business, why could they not fix their abode, and take shops to sell their goods in as well as carry them about the country? With regard to a compact, undoubtedly no express compact had been made, so as to pledge that House to any specific line of conduct respecting hawkers and pedlars; but gentlemen must recollect that it had been suggested, when the shop tax was stated to the House, that shopkeepers would be relieved from the intrusion made upon them by hawkers and pedlars. Therefore, although the House were not pledged by any specific stipulation to abide by the act of the last session, they were bound in honour to do so.

Sir *E. Astley* contended, that when the shop tax had been proposed, the shopkeepers were given to understand from authority that the hawkers and pedlars were to be abolished. Under that promise and suggestion it was, that many gentlemen had been induced to support the shop tax, and though the House had not acted up to the extent of that sugges-

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tion, yet the matter had been in a manner compromised by the tax imposed on hawkers and pedlars, and the restrictions which accompanied it. In Norfolk the clause of the Act, authorizing magistrates to prevent hawkers and pedlars from entering or continuing within the county, had been enforced, and the shopkeepers considered their being so kept out as some *douceur*, and they the more cheerfully paid the tax on shops in consequence of it. He denied that hawkers and pedlars were generally considered so useful as had been represented, and declared that they carried about old-fashioned, and often smuggled goods; and being generally employed in travelling about, had no settled home, and consequently did not pay in any proportion to the taxes, to which the resident shopkeeper so largely contributed.

Mr. Alderman *Hammet* appealed to the recollection of the House, if the Chancellor of the Exchequer had not, when he first proposed the shop tax, mentioned his intention of suppressing the hawkers and pedlars, and whether many gentlemen had not been induced to vote for the shop tax in consequence of that proposition, and, in particular, influenced the hon. baronet, who now so consistently opposed the present Bill. If the Bill was in any view proper, it should have been accompanied with another for the repeal of the shop tax.

Mr. *Powys* remarked, that he could not see any reason to refuse releasing the hawkers and pedlars from restrictions which bore hard upon them, and could not be supported upon any principle of expediency, necessity, or justice. The argument against the Bill, he understood to be, that a compact had been made between parliament and the shopkeepers, that the restrictions imposed on hawkers and pedlars by the Act of the last session should not be repealed. He knew of no such compact; nor indeed was it possible that such a compact should have been made, because the House would not bargain to oppress a harmless and innocent set of people, for so that House had declared hawkers and pedlars to be by tolerating them. If they were not fit people to be tolerated, let them be abolished altogether; but the House surely would not act so unjustly as to pronounce them fit to exist, and then, in an indirect way, deprive them of the means of existence. He felt the hardship of obliging the hawkers and pedlars to remain under all the severe restrictions imposed by the Act of the last session so forcibly, that the collective authority of all their constituents put together should not induce him to support an act of injustice, and such he considered the Act of the last session. He had been a supporter of the shop tax; he still approved of that tax, and he should be extremely glad to hear it was cheerfully paid; but he would not purchase the consent of the shopkeepers at the expense of the oppression of the hawkers and pedlars. Competition, as an hon. gentleman had said, was the soul of trade. It was so undoubtedly; and therefore he wished to leave the hawkers and pedlars unfettered with restrictions calculated to support the most ardent wish of every shopkeeper, a monopoly.

Mr. Alderman *Newnham* said, that the shop tax was certainly an oppressive and partial tax, but he could not see how taxing hawkers and pedlars would render it less so. Hawkers and pedlars were, in his mind, a very honest, useful, and industrious set of people. If any body of men could be said to earn their bread by the sweat of their brow, that body certainly consisted of hawkers and pedlars.

Mr. *J. T. Ellis* said:—The worthy alderman must have been particularly fortunate in his dealing with the hawkers and pedlars, to venture to speak so decidedly in declaring them to be a very honest set of people. I think so many of the late revenue burthens are laid on occupiers of houses, that they have a claim to protection against competitors, who do not equally contribute to the exigencies of the state. I wish to guard against the facility which, as the clauses are now worded, they give to evasion. Such restrictions as the Legislature think it wise to continue should remain inviolable. Shopkeepers submit to their burthens, relying on the stability of our proceedings, and that we shall not suffer these invaders of their rights to make farther encroachments on their means of subsistence; but if to what the Legislature professes to grant, they should be permitted, through our inattention, to carry their trade into every market-town in the kingdom, they would share the profits without proportionably sharing the burthens of the place. I shall therefore give my vote for the amendment.

Mr. *Beaufoy*.—If I do not mistake the arguments of the hon. gentleman who

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spoke last, and those of the noble lord who delivered his sentiments in an earlier stage of the debate, the principal objections to the present Bill are founded on the idea of its being a breach of compact, and a total departure from parliamentary faith. They have not, indeed, asserted that any positive agreement expressed in words was concluded with the shopkeepers, for the provisions of the last year's bill; but they intimate that a sort of tacit bargain, deducible from the nature of the case, is understood to have existed; a bargain that, if the specific impost should be laid on the stationary venders of goods, the itinerant sellers should be subjected to proportionable burthens. With this compact the noble lord and the hon. gentleman have endeavoured to shew that the provisions of the present Bill are altogether inconsistent.—Sir, the primary object of the present Bill is the repeal of that clause in the Act of the last year, which enables the magistrates of counties, without a hearing, without the proof of any crime committed, without the charge, or even the suspicion of offence, to dismiss an entire class of his Majesty's subjects from their only occupation, and to consign them to misery and want.—In what respect is this clause connected with the compact of last year? In what respect is the entire proscription of the hawkers and pedlars essential to their just taxation? Foreign to the principle, and unthought of by the framers of the Act of which it forms a part, this clause was proposed in one of the latest stages of the Bill. Few persons were present, and of those few, the greatest part seemed little disposed to exactness of investigation or minuteness of inquiry. Some of us, indeed, had also a powerful persuasive for acquiescing in the clause, in the confidence we felt in the character of its hon. mover: to his known integrity we trusted, that nothing which he recommended to the House could be intentionally wrong; and we trusted to his acknowledged good sense that he was not likely essentially to err. Sir, the uneasiness and strong remorse which from that hour I have almost unceasingly felt, have convinced me, that in all cases, and more especially those in which the subsistence of many hundreds of my fellow-subjects is at stake, a vote of confidence is a most unwarrantable thing; for though I may be perfectly sure that the hon. gentleman means not to deceive the House, yet I never can be sure, that he is not himself deceived. Upon these grounds I am anxious, that the clause proposed to be repealed should, now at least, be debated without regard to authority, which, as far as persons and personal considerations are in question, is seldom in favour of the poor. But the House, I well know, will not be the less disposed to support a just cause from its having nothing but its justice to recommend it. In what light, then, are we to view the power that has been given to the magistrates for the ruin of a numerous description of people; a power to commit without a trial; to condemn without a hearing; and to punish without even the suspicion of guilt? Sir, the law which gives that power violates the constitution, contradicts the express words of Magna Charta, and wounds the security of every individual in the kingdom. What principle shall be deemed sacred, when the first principles of justice are violated? what obligations shall be valued, when those of humanity are despised? or what government can be thought permanent, when the basis of civil society itself is thus wantonly attacked? Has the Legislature a right to establish oppression by law; to connect punishment with innocence; to invest its magistrates with a power which even in governments the most despotic would be considered as a just ground of dissatisfaction and complaint?—I know I shall be told, that the clause which conveys this power is not of a judicial nature, but is merely a regulation of police. Sir, to the subject, the name is immaterial; for, give to the Act whatever appellation you will, it still is an Act that renders the subject dependent for his safety, not on his own innocence, not on his strict observance of the laws of the land, not on the faithful discharge of every duty which he owes to the state, but on the casual opinion, the accidental humour, the mere caprice of the magistrate: nor is there the smallest pretext for giving this intemperate law the specious appearance of a measure of police; for measures of that sort can only be founded on necessity or expedience: now, of the first of these pleas, on the present occasion, the existence is not pretended; the law itself is a proof that the power which it gave to the justices, of proscribing an entire description of people, was not founded on necessity; for if the necessity of taking their livelihood from these unhappy men had existed, the law could not have left the execution of the measure

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to the uncertain decision of the magistrates. Equally obvious it is, that this strange and unprecedented delegation of power was founded on no expedience, for the persons to whose judgment you appealed for the propriety of the measure, the very magistrates themselves, by their almost unanimous refusal to execute the law, have emphatically declared, that the measure is inexpedient, is unjust, is inhuman.—On what grounds, then, was this reprobated clause recommended to the Legislature? Unconnected with the principle of the Bill of which it forms a part; alien to the laws; incompatible with the constitution, and adverse to every principle of expedience, of justice, and of humanity, on what foundation does it rest? Sir, it rests on a foundation so abhorrent to every honest and honourable feeling, that I cannot without the deepest concern describe it to the House—it is founded on the spirit of monopoly; on commercial hatred; on the eagerness of one description of traders to ruin and destroy another: to such views the members of this House will never deliberately give the smallest support.—They who advise an opposite conduct; they who propose that the measures of the House should take their direction from the dictates of private animosity, and of trading rivalship; they who would make the Legislature itself the instrument of injustice, and an act of parliament the mode of sanctifying oppression; are as careless of the honour of the House, as they obviously are of the happiness and prosperity of the kingdom.

Mr. *Marsham* remarked, that when the shop tax was proposed, it had been expressly stated, that hawkers and pedlars should be abolished, and under that suggestion, many gentlemen had consented to vote for the shop tax: afterwards, when the idea was departed from, and a tax on hawkers and pedlars had been proposed, and the subject came into discussion, it had been urged by several gentlemen, that there were parts of the kingdom in which hawkers and pedlars were extremely useful from the scarcity of villages and towns, their extreme distance, and the consequent difficulty of getting at shops without great trouble and loss of time. On the other hand, it had been stated, that there were other parts of the kingdom where villages and towns were numerous, and shops almost every where within reach; his clause, therefore, had been calculated to meet both these arguments: in counties where hawkers and pedlars were useful, the magistrates, instead of forbidding their coming, would naturally encourage it; whereas in those counties where their presence, so far from being wanted, was deemed a nuisance, the magistrates were authorized to prevent their coming: but they were not to be sent to prison without a hearing; they had an appeal to the quarter sessions, upon whose authority alone they could be committed and detained; nor was it to be imagined that any gentleman in the commission would wantonly exercise his power over poor hawkers and pedlars.

Mr. *Courtenay* said, that an hon. baronet had given good, and indeed excellent reasons, why the Bill ought not to pass into a law. He had stated that the hawkers and pedlars carried about old-fashioned goods; undoubtedly the hon. baronet would be exceedingly shocked at perceiving any thing old-fashioned about him. He had also said, the hawkers and pedlars had no resident place of habitation, and that they travelled about from one part of the country to another. This was also an excellent objection, for how dare such humble individuals follow the order of nature? Why had they not learnt the art of being in two places at one and the same time? And yet, no doubt, they had the impudence to justify their conduct, by declaring that they could not stay at home, and travel about with their packs at the same period. The justices also had acted wisely in prosecuting these hawkers and pedlars, and they had assigned admirable reasons, as justices always did, for their proceedings. They had stated, and he had that day read it, that the hakwers and pedlars imposed on the people, by carrying about English goods and pretending they were smuggled from France. This was indisputably a gross and scandalous imposition; for what could be more nationally injurious than to cheat the public into the purchase of British manufactures? There were other reasons of an equally serious tendency, to be urged in justification of adhering to the Bill of the last year. Perseverance was a noble and a magnanimous virtue, and surely perseverance in the wrong shewed more magnanimity and firmness than perseverance in the right. If the House made an egregious mistake in passing an unjust Act against hawkers and pedlars last year, why should they avow their pusillanimity by acknowledging their error? It was much better to be firm, and to prove

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beyond possibility of doubt, that the House would maintain its proceedings right or wrong. There might, to be sure, be some weak-minded men, who, thinking that justice was a better cause than obstinacy, might be inclined to favour the hawkers and pedlars; and as their weakness was an amiable one, their want of magnanimity might be forgiven. Indeed, if the number of gentlemen of this description should prove successful, he believed the world would admit they were in the right, and that they stood fully justified to their constituents in particular, and to their country in general.

Mr. *C. Robinson* stated, that hawkers and pedlars were only forbidden from entering market towns, except on fair-days, but that cities and capitals were open to them; and that if the Act had not contained such a restriction, they all knew that by the charters of many old corporations, the corporations themselves enjoyed rights and privileges tantamount to the keeping out hawkers and pedlars. There was an implied compact held out to the shopkeepers during the last session; and under the faith of that, his constituents had cheerfully paid the tax.

Mr. *S. Thornton* declared, he had given his consent to the shop tax, under an idea that hawkers and pedlars were to be abolished.

The *Lord Advocate* said, he had been instructed by several of his constituents, who were shopkeepers, to support the present Bill, and to endeavour, as far as in him lay, to obtain a repeal of the severe clause against hawkers and pedlars.

Mr. *Windham* declared, that however confident he might be, from the liberality of his constituents, manifested already towards him in a very exemplary manner, that to vary from their sentiments would not injure him in their opinion; yet that an opposition to their wishes must even on that account give him particular pain. It was not, therefore, without a sacrifice of his private feelings to his sense of public duty, that he rose to declare he held the singling out of any particular description of persons, as the objects of taxation, to be to the full as unjustifiable, as it would be for the minister to put his hands into the pockets of an individual, and insist on the state's sharing with him in the contents of his purse. All taxes should be governed by some general rule or other, indiscriminately applying to the people universally; and any distinction taken to the prejudice of one set of men, and in alleviation of another, was, in his mind, proceeding upon a false principle of taxation. Equally false in principle and unwarrantable in practice, was it to take a load off the shoulders of one set of men, and place it on the shoulders of another set of men less capable of bearing it; and yet this had actually been done in respect to the country shopkeeper and the hawker and pedlar. As an inducement to the former to submit to a harsh and severe personal impost, the hawker and pedlar had been heavily taxed and rigorously restrained within certain convenient limits, and now, after the country shopkeeper had been relieved almost entirely from his burthen, the load was to remain on the back of the hawker and pedlar. This mode of proceeding was unjust and indefensible. He, therefore, felt himself obliged, in a conscientious discharge of his duty, and with a view to measure out equal terms to both descriptions of men, to give his vote in support of the Bill.

Sir *Adam Fergusson* said, he had given himself the trouble of examining what the sum was, that the country shopkeeper paid for the shop-tax, upon which so much stress had been laid. The sum paid by shopkeepers renting houses from 5*l.* to 10*l.* and even up to 25*l.* a year, was from 3*s.* to 6*s.* 8*d.* and up to 19*s.* He dwelt on the extreme injustice of depriving a large description of industrious individuals of the means of earning an honest livelihood, in order to compensate a shopkeeper of extensive dealings for the trifling tax of 19*s.* a year.

Mr. *Pulteney*, as the person who had introduced the Bill, wished to offer a few words upon the subject. With regard to the idea suggested of the hawkers and pedlars cultivating the waste lands, the hon. gentleman, it was evident, had been but little used to cultivating land, or he must have known that it was very expensive. The hawkers and pedlars who had formed a settlement in Staffordshire, had, for a number of years, applied the profits of their industry as hawkers and pedlars, to the improvement and cultivation of the soil around their habitations. If they were suffered to continue their industry unrestrained as before, they would be enabled to continue their agricultural improvements; but the hon. gentleman wished to deprive them of acquiring an honest profit, and yet would set them down as cultivators of the soil, without any money to

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carry on that business. He stated the extreme difficulty that must attend their complying with the clause of the Act, which restrained them from coming within two miles of the center of a market town. In some cases, two market towns were so near each other, that it was not possible to be at the distance of two miles from the center of one, without being within that distance of the center of the other.

Mr. *Pitt* said, that the hon. gentleman opposite seemed to be mistaken in the statement he had made of the circumstances under which that Bill first came forward. It did not arise, as he had stated, from any opposition to the Shop-tax, but was in fact opened to the House at the very time that that tax was first mentioned. On his intention to propose a tax on retail shops, he had thought it necessary to consult some of the best mercantile authorities on the subject, and had collected from them that the only method by which that body of people which were intended to be made the vehicles of the tax to be raised for the use of the public, could be reconciled to it, would be by withholding the licences of the hawkers and pedlars; by which means, as a compensation for the new burthen to be imposed upon them, they would be relieved from what they already considered as a severe grievance, the unfair competition between them and the hawkers and pedlars. He disclaimed the doctrine of any pledge from the Legislature to a body of men, who seemed proper objects of a tax; and above all, a pledge that it would omit to do what might in future occur to it as just and politic; but yet, though he should by no means admit such a principle, he thought that the circumstances attending the introduction of the two Bills last year, and the one being made a palliative to the other, and many gentlemen having agreed to both, who would have objected to one of them separately, he thought, without admitting any idea of the public faith of Parliament being committed, that there was sufficient reason for the House to withstand any proposal of a repeal of one of them, unless upon the most mature deliberation and the strongest arguments. The justice of the restraints on the hawkers and pedlars arose out of the very nature of commerce, in which so much depended upon a competition, that it would have been the most unwarrantable measure to have laid one set of traders under a burthen, and at the same time to have left their competitors free from it. The intention of the Legislature in imposing the tax on retail shops was, that they should indemnify themselves, by adding an advance to the prices of their goods; but, if the hawkers and pedlars had been left upon their old footing, they would have been under no such necessity of increasing their prices, and consequently would have been able to undersell the shopkeepers, and by that means deprive them of their trade. To illustrate this, he made a supposition that there were in the city and neighbourhood of London eight distillers; would it not, he said, be impossible to impose a heavy tax upon seven of those persons, and to leave the eighth free and unincumbered, without doing a material injury to those who were obliged to pay it? Admitting, merely for the sake of argument, the propriety, and even the urgency of a repeal, it behoved the House not to suffer it without the utmost circumspection.

Mr. *Wilberforce* said, he felt himself warranted to declare, that he had good reason to think that the hawkers and pedlars were a very honest, industrious, useful description of men; that they had been too severely dealt with, and merited the attention of that House.

Mr. *Gilbert*, describing the large colony of hawkers and pedlars settled in Staffordshire, declared that it had been uniformly so unexceptionable, and at the same time so praise-worthy, that the House ought to consider hawkers and pedlars as objects of its protection and kindness rather than of its severity. That settlement was not the only stationary proof of the industry and laborious exertions of the hawkers and pedlars; they had furnished other proofs, and were really so well worthy the care of Parliament, that he trusted the humanity, as well as justice of the House, would be evinced, by their suffering the Bill to be read a second time.

Sir *Watkin Lewes* said, that with respect to the shopkeepers of London, he must beg leave to inform the House, that the restriction imposed on the hawkers and pedlars, was so far from being a relief to them, that they considered it as an additional burthen.

The House then divided on the question, that the Bill be now read a second time: Yeas, 49; Noes, 99. After which, the Bill was ordered to be read that day three months.

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Earl Stanhope's Plan for rendering the Reduction of the National Debt permanent.] May 22. The Bill for the Reduction of the National Debt was read a second time. On the motion that it be committed,

Earl *Stanhope* rose. He observed, that he should never have taken the liberty to have troubled the House with a notice of his intention of bringing, that day, before their lordships the whole of the great question relative to the reduction of the national debt, if he had not conceived it to be a question of as high importance as any that ever did come, or any that ever could be brought, under the consideration of Parliament. He contended, that it was in the first place the most important of all possible questions of finance; that it included every question in which Englishmen were deeply interested; that it involved the subject of taxation in its full extent, and the future diminution of the burthens of the people; and therefore that it involved also the consideration of the price of labour, which was so considerably affected by the injudicious manner in which many of the taxes were laid in this country: that the question of the price of labour involved the consideration of the price of manufactures, and consequently the most extensive consideration of commerce and of foreign trade; that commerce and foreign trade most materially affected the naval strength of this country, and of course the defence of this kingdom, and the defence of all our foreign possessions in every quarter of the globe.

This great question before their lordships relative to the reduction of the national debt, included the wealth, strength, prosperity, and even the sovereignty and independency of the state; and no question could more deeply affect the foreign politics of this kingdom. This was also a question of liberty and of the constitution: taxes begat the necessity of revenue officers to collect them; and the swarm of excise officers, of stamp officers, of custom-house officers, and of revenue officers of every description, tended in a great degree to increase the unconstitutional influence of the Crown: and, therefore, every Whig, who wished to reduce the influence of the Crown, must wish also to reduce the public debt. This great question, then before their lordships, was a question of liberty and the constitution in a still more important point of view, inasmuch as it was a question that so peculiarly affected the independence of the country: the question then before the House in fact was, whether this kingdom should hereafter become a conquered province to some foreign state, or should remain a free and independent country, the pride of Europe, and the envy of the world. His lordship then enlarged upon the necessity of reducing the public debt, and particularly upon the danger of the diversion of the new Sinking Fund in time of war by Mr. Pitt's Bill then before the House. He stated, that four million of free revenue (to which the Sinking Fund was finally to accumulate), if applied by a minister to the interest of new loans, would enable him to obtain eighty million by way of loan, in order perhaps to apply those 80 millions to the most absurd, or to the most profligate purposes; and that the only way to prevent future ministers and future parliaments from diverting this new Sinking Fund was, to institute a bargain, and solemnly to pledge the public faith.

Earl Stanhope next spoke of the new clause introduced into Mr. Pitt's Bill in the House of Commons on the motion of Mr. Fox: upon the whole, he much approved of that clause, though it was certainly liable to some objections. The saving of the bonus upon a considerable loan was no immaterial advantage; but the principal advantage of that new clause was, that by diminishing the quantity of money really to be borrowed, it made the minister so much more master of the bargain; and that clause was not liable to the objections which would attach upon any diversion of the new Sinking Fund; insomuch as that clause was so contrived as not to break in upon the admirable operations of compound interest. His lordship then alluded to the speech of Mr. Pitt, in the House of Commons, in which he had stated, that it was a recommendation of Mr. Fox's clause, "that it tended to diminish the temptation to divert the new Sinking Fund." Earl Stanhope said, that any man who could use such an argument, absolutely abandoned the defence of the new Sinking Fund Bill. What, diminish the temptation to do that which is stated to be impossible! It was admitting, that by the new Sinking Fund Bill, there was a temptation to divert the surplus: it was admitting that there was a temptation (though a diminished temptation) to divert it; and that by Mr. Pitt's plan, the diversion of the new Sinking Fund was possible. Earl Stanhope then

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stated, that in order to avoid the evils which must follow from a diversion of the new Sinking Fund, he had drawn up a plan for that purpose: that he should say nothing about that plan, because he had already submitted it to the judgment of the public; but that if ministers (alluding to a speech of Mr. Pitt in the House of Commons) were of opinion, that that plan of his was either nugatory, or (when compared with the plan of the minister) uneconomical; that, if that were the opinion of ministers, they would do well to maintain that opinion in that House, where they should find a person prepared to give them a complete answer. That if those were the weak and shallow grounds upon which that plan of his had been rejected, it only proved, that ministers had rejected that plan, because they did not understand it. He challenged ministers te enter into the discussion of that plan in that House. He knew that he stood upon such strong ground, that he would venture, with confidence, to throw down the gauntlet upon that subject; and he called upon ministers, either on that, or on any future day, to dare to take it up. His lordship then stated, that he had a new plan, founded on the same general principles on which his other plan was founded, but extremely varied as to the mode of application. He then stated to the House the said new plan, which was as follows:

Proposal of Earl Stanhope for rendering the Reduction of the National Debt permanent.

"Whereas, in order to establish a permanent Plan for the Reduction of the National Debt, and to make a lasting provision for the maintenance of the public credit, it is essential that the monies to be set apart for the redemption of redeemable public annuities, be invariably and unalienably applied for that purpose:

"And whereas effectually to insure the Reduction of the National Debt, in time of war as well as in time of peace, it is essential that the public faith be fully pledged by a compact being made between the state and the creditors of the public; and that it be an express condition of that compact that given sums of money to be set apart for the gradual redemption of the national debt, be applied towards such a redemption, by a fixed course of payment, and to no other purpose whatever:

"And whereas the public have the undoubted right to redeem the redeemable public annuities in such order and course of payment as they shall deem the most expedient:

"And whereas it would be highly advantageous to holders of stock below par to acquire a right of priority of redemption; inasmuch as the repeated application of large sums of public money to redeem any particular stock which is below par, would *(cæteris paribus)* raise the value of such stock in the market higher than any other stock bearing the like interest:

"And whereas it would be much for the interest of holders of stock bearing interest at 3*l.* per centum per annum, to give up to the public a part of their present capital in order to obtain from the public the said right of priority of redemption:

"It might therefore be enacted, that books be opened at the Bank, in order to receive the names of such holders of stock bearing 3 per cent. interest, as should be willing to signify their consent to accept of 90*l.* for every 100*l.* of their present capital, whenever the public shall be desirous of redeeming the said capital at such price. And that the said books do remain open for the space of six calendar months from a given day.

"And in order that those holders of 3 per cent. stock, who might have neglected to signify such consent within the said six months, might have an opportunity to do it afterwards, a farther time of three calendar months (to commence from the end of one year after the expiration of the said six months) be allowed for that purpose; provided always that those persons only be permitted to subscribe their names within the said latter period (namely, the said period of three months) who should forthwith pay to the public 1 per cent. upon the amount of their capital.

"And that all holders of this new 3 per cent. stock should be entitled to be paid off before any part of any other public stock whatsoever should be redeemed; and should moreover be entitled to be paid off by the following fund; namely, by an annual surplus of not less than one million; to which shall be added, all the public annuities for terms of years or for lives that may fall in, and likewise all dividends now payable on the principal or capital stock of such public annuities as shall at any time hereafter have been redeemed; and that the whole of the said fund be invariably and unalienably applied to the gradual redemption of the said new 3 per cent. stock, at the prices which the

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said stock shall successively bear at market. And that the aforesaid fund be permitted to accumulate without limit, as long as there shall remain any of the said new 3 per cents unredeemed.

"But when all the new 3 per cents shall be redeemed, then the aforesaid fund shall no longer continue to accumulate; but, from that time shall become limited so as never to exceed two millions per annum, and shall thenceforth be applied, first to the redemption of the present 5 per cents, then to the redemption of the present 4 per cents, then to the redemption of all public debts which shall have been contracted after the 1st day of April, 1786, on account of any war or wars, or otherwise: and which shall bear interest at 3 per cent. per annum, or at more than 3 per cent. per annum; and, lastly, to the redemption of the present 3 per cents, if any such should then exist; and that the surplus of the said fund above the said two millions shall be disposed of as Parliament shall direct.

"Provided always, nevertheless, that if all the holders of the present 3 per cent. stock shall have signified their consent in manner aforesaid, that then, and in such case, the aforesaid fund, instead of becoming limited to two millions per annum, shall continue to accumulate without limit until all the present 5 per cents, and also all the present 4 per cents shall be redeemed.

"And that it be enacted, that if at any time a gain of one eighth per cent. upon the interest of any fund or funds which shall then by law be redeemable, can be obtained by opening books to receive new subscriptions, in order to apply the money so subscribed to the redemption of stock bearing a higher interest, that then, and in such case, books shall be opened at the Bank for such purpose, and that all interest so saved shall be added to the aforesaid fund to be applied to the reduction of the national debt; and that the new subscribed stock shall have the same right of priority of redemption, as the higher interest stock had, which should have been paid off in consequence of the said new subscription."

Earl Stanhope observed, that it ought also to be enacted, that the aforesaid fund, instead of becoming limited to two millions per annum, should continue to accumulate without limit, whenever the said fund should come to be applied to redeem any new subscribed stock which shall have been borrowed as aforesaid, in order to pay off any stock bearing an higher interest; and that it might likewise be enacted, that the compact to be entered into as aforesaid with the holders of 3 per cent. stock, should be made subject to the new clause in Mr. Pitt's Bill, for the reduction of the national debt, (proposed in the House of Commons by Mr. Fox, and assented to by Mr. Pitt) namely, that the commissioners should be empowered to subscribe to any public loan, any of the monies placed to their account in the books at the Bank.

Earl Stanhope desired their lordships to take particular notice, that this plan did not pledge the public to redeem the 3 per cents at 90*l.*, but only to give the public a right to redeem the new 3 per cents at a new par of 90*l.*, as the public have now the right to redeem the present 3 per cents at the present par of 100*l.* And that the commissioners appointed by Mr. Pitt's Bill would, under this plan, be empowered to purchase up, at market, the new 3 per cent. stock, just in the same manner as the commissioners were now empowered, by Mr. Pitt's Bill, to purchase up at market, the stock (whatever it was) which was below par; that is to say, to purchase stock at the then market price. His lordship then stated to the House his reasons for having proposed, in the aforesaid plan, that the stockholder should give up to the public a part of his nominal capital, and that the public should give to the stockholder the right of priority of redemption. He stated, that the stockholder had three things, which he might give to the public, and that the public had four things, which they might give the stockholder. First, that the stockholder might give the public a sum of ready money; but, that this the stockholder would not choose to give: secondly, that the stockholder had to give to the public a portion of his dividend; but that this was what the stockholder would also be unwilling to relinquish: and thirdly, that the stockholder had to give up a part of his nominal capital, which would not be to him any present loss, and which he would not consider as any material sacrifice. That the public, on the other hand, might give the stockholder, either ready money, or an increase of his dividend, or an augmentation of his nominal capital, or the right of priority of redemption. Of these four things, it was evident, that the right of priority of redemption, was that which

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would best suit the public to give, inasmuch as it was that which was no loss to the public to dispose of, but which was a material advantage to the stockholder to receive. His lordship then stated his reasons for having proposed two periods for subscribing, with a year's interval between them; he said, that either much stock would, or much stock would not, be subscribed in the first period. That if much stock were subscribed in the first period, it became immaterial whether any were subscribed in the second. But that, if much stock were not subscribed in the first period, the price of the new subscribed 3 per cents would be considerably higher than the price of the unsubscribed 3 per cents, during the year between the two subscriptions; and that the inevitable consequence would be, that people would flock to subscribe, as soon as the second period of subscription should arrive. The reason, he said, for making persons pay one per cent. upon their capital, who should delay subscribing till the second period, was in order to induce the more persons to subscribe in the first instance.

Earl Stanhope then stated the reason for not permitting the new sinking fund to accumulate beyond two millions per annum, in the particular case stated in the above-mentioned plan, and for throwing the unsubscribed 3 per cents remote from redemption. It was in order to create the stronger inducement for the holders of 3 per cent. stock to accept of the terms offered to them. His lordship then explained that part of the plan by which it was proposed to receive new subscriptions to pay off stock bearing an higher interest. That part of the plan, he said, related to the five per cents and to the 4 per cents. He explained this by an example. Suppose, said his lordship, that in some years hence, the interest of money should be at 3½ per cent. a gain of 1½ per cent. might then be made upon the 17,869,993*l.* of 5 per cents which would be 268,049*l.*, and a gain of 1½ per cent. would also be then made upon the 32,750,000*l.* of 4 per cents, which would be 163,750*l.*; and the said two sums added together, would make 431,799*l.* which would be annually to be added to the new sinking fund. Independent of this prodigious advantage, the above regulation would also produce the following admirably good effect, namely, the rendering the sinking fund unalienable during the whole period of the redemption of these new 3½ per cents, inasmuch as the 50,619,993*l.* of new 3½ per cents would have been lent to the public under the express condition of being redeemed, in a given course of payment, by the annual application of the whole of the new sinking fund.

Earl Stanhope then read to the House the following letters, which he had received from some of the first monied men in this country, and some of the most knowing men in the city. He paid the highest compliments to each of the persons whom he mentioned; and said, that such great authorities proved that this plan was practicable.

NOTE from Mr. Harman, partner in the capital house of Gurnell, Hoare, Harman, and Co. to earl Stanhope.

"Mr. Harman, with his respectful compliments, acquaints earl Stanhope, that the best reflection which he is capable of making upon the subject, has confirmed his opinion;—That it is essential to the advantages proposed by 'the Bill for providing a fund for the reduction of the national debt,' that the best possible security be given for the faithful and unalienable application of such fund to those objects. —That the most effectual means of providing this security, will be to institute a compact between the public and individuals.—He also thinks that the plan which earl Stanhope has done him the honour to consult him upon, would obtain that object, and that a very considerable number of the holders of 3 per cent. annuities would be induced to assign to Government the option of redeeming them at the price of 90 per cent. upon condition that the monies to be raised by the before-mentioned Bill should be applied to the purchase of such new subscribed stock, and to no other purpose whatsoever, till the whole of it be paid off.—Mr. Harman is however become more diffident of this opinion, from understanding that several persons with whom he has conversed, dissent from it, considering the advantages of such preference so very remote as scarcely to compensate for the surrender of 10 per cent. capital of the present annuities, however ideal the value of it may be."

LETTER from two capital Brokers to earl Stanhope.

"My lord; we conceive that it is highly essential, that the nation be com-

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mitted in an absolute bargain and compact with the public creditor, in order to make the plan of redemption permanent. Without which commitment of the public faith, much future advantage will not be likely to be derived from the plan of redemption, as a war might otherwise interrupt its salutary operation. We likewise think that a bargain formed upon the principles contained in your lordship's manuscript plan, will effectually pledge the public faith; and that by far the greater part of the present existing debt, bearing an interest of 3 per cent. per annum, will be converted upon the conditions mentioned in your lordship's plan.

We remain, &c.

THO. ROBERTS and SON."

EXTRACT of a NOTE from other eminent Brokers to earl Stanhope.

"They clearly understand the whole of his lordship's ideas, and are unanimously of opinion, that the greatest part of the 3 per cents would be subscribed in at 90, on his lordship's conditions."

EXTRACT of a LETTER from Dr. Price to earl Stanhope. Dated Newington Green, May 15, 1786.

"My Lord; I agree entirely with those gentlemen in the city, who think that the greater part of the 3 per cent. stockholders would consent never to be redeemed at a higher price than 90, provided such terms as your lordship proposes are offered to them; that is, provided a right is given them to be first redeemed by a sinking fund, not capable of being interrupted or diverted. It is obvious that the larger this fund is, the greater will be the benefit which they will derive from such a right, and therefore the more probable their general acceptance. I have nothing to add to what I have said in my former letters, with respect to the practicability of pledging the faith of Parliament to these stockholders in such a manner as to assure them of the unalienableness of the fund.—The plan which Mr. Pitt has adopted is that which I have been writing about, and recommending for many years. It would be an unspeakable improvement of it, could a method be discovered of making an interruption of it as much an injurious breach of faith with the public creditors as seizing their dividends; and I heartily wish your lordship success in establishing such an improvement.—I am sorry for the clause in the new Sinking Fund Act, which directs that the accumulation by compound interest shall cease, after the fund has increased to four millions, including the million surplus, and the lapsed temporary annuities. This will happen in 27 years, and the fund will then have paid about 57 millions; were the accumulating interests to be carried to the fund for 13 years more, it would increase to near 61½ millions; and five millions in taxes might then be abolished; and the remaining million and a half (reserved for a new sinking fund) might possibly keep the public debts within the bounds of safety for ever afterwards."

EXTRACT of a LETTER from an eminent Merchant in the City, to earl Stanhope, dated 16th May, 1786.

"My Lord; I beg leave to return the inclosed paper to your lordship, with my earnest thanks for the perusal. As the great difficulty in establishing a permanent sinking fund, arises from the uncertain disposition of future parliaments; your lordship's plan will prevent any alienation, in consequence of the free revenue (with the additional aids) having been pledged, and even sold, to a part of the public creditors, for a valuable consideration. The object of rendering the sinking fund unalienable, is not only of the highest importance in itself, but is the sincere wish of every true friend to his country, and for which every proper sacrifice may be made.—The discount of 10 per cent. on the captital stock of the 3 per cents, for the purpose of conversion, is also a substantial and considerable benefit for the public, provided the whole, or the greater part of the stock, shall be subscribed: but it will not be for the interest of the public to pledge the sinking fund, or rather the priority of redemption, to a small part only of the proprietors of the 3 per cent. stock.—I am not competent to give an opinion whether the subscription from the holders of the 3 per cent. stock would be general under such a plan, or otherwise: if I must consider the subject as a person endeavouring to procure every advantage for himself, I should subscribe in the first instance a part of the old 3 per cents; and if the new 3 per cents. sold at a higher price than what I could obtain for the old stock, allowing for the abatement of one per cent.; then, but not till then, I should subscribe the remainder."

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EXTRACT of a LETTER from an eminent Banker, to the earl of Stanhope, dated 19th May, 1786.

"My Lord; I have considered the plan your lordship did me the honour to communicate, and I see your great object is, to make the one million per annum, with its increase, a permanent fund for the purpose of annihilating the public debt.—I confess I see no means of rendering it absolutely unalienable, by any act of parliament, without a bargain taking place between the public and its creditors. Your lordship's plan would effectually prevent the application of the new sinking fund to the interest of any future loan, as might be proposed, by some future minister in time of war; and I think it very likely, on the terms proposed, that a great number of the holders of consolidated three per cents will become subscribers."

In addition to these weighty authorities, earl Stanhope stated, that he had often conversed with another of the most capital bankers in the metropolis upon the subject of this plan, who declared it to be of exceeding great consequence to the stockholders, as well as to the public, to insure the invariable application of the new sinking fund to the purchase of stock at market, and that in his opinion the greater part of the 186 millions of present 3 per cents would be subscribed in at 90, under the conditions of this plan; and that a very great number of them would be subscribed in, even at 85. He stated, that it was a great advantage of his new plan, that it might another year, be grafted upon Mr. Pitt's plan. That Mr. Pitt's was not defective so much on account of what it did contain, but on account of what it ought to contain, but which it did not. That it was his wish that Mr. Pitt's Bill should pass without a dissenting voice, in order to shew foreign Powers that, whatever might be the differences of opinion in this country with respect to politics, there was one subject upon which we were unanimous, namely, in our firm determination to reduce our debt and to redeem our finances. He stated, that people might wonder how he could reconcile it to his conscience to vote for so defective and so bad a bill; but that, as his principal objection to Mr. Pitt's Bill was, that a minister might be induced to involve this country in war, in order to seize upon a large surplus, that objection did not now exist: for, that the surplus of the year 1786, was not that prodigious surplus, was not that tempting morsel, and was not that seducing bait, which would induce any minister to involve this country in war, in order to seize upon such a surplus. He said, it was a great advantage of his plan, that it prevented the commissioners from gambling in the public funds; and that the new 3 per cent. stock established by his new plan, would be an homogeneous stock.

Earl Stanhope then moved, "That it is the opinion of this House, that it is highly important to the public creditors, as well as necessary for the welfare of this country, that a lasting provision be made for the maintenance of the public credit, and that a plan for the reduction of the national debt be rendered absolutely permanent. And, in order effectually to insure the permanency of such a plan, that it is essential that the public faith be fully pledged to individuals, by an express compact being entered into between the state and the creditors of the public, so that a breach of such a compact should be equivalent to an act of bankruptcy."

Earl Stanhope concluded his speeh in words to the following effect: Our situation with respect to our finances is critical; but it is not that by any means which ought to incline us to despair. Neither is it that which ought to make us over sanguine. Despondency prevents men from taking the steps necessary for their good, and that from a total want of confidence in their success. An over-sanguine temper produces (though from an opposite cause) the same bad effect; because men are not led to take steps for their security until they perceive that there is some impending danger. We ought to view our situation (whatever it may be) with calmness and decision; and our minds will then be in a fit state to form a proper judgment.—There is no situation, however unfortunate, but which affords some species of consolation; and such has been the goodness of Providence towards mankind, that circumstances of misfortune generally carry some consolation with themselves. The present situation of our finances affords a striking instance of this. If we were rich, the nation might be haughty; and ministers might be proud, and might be tempted to involve the nation in rash wars, from the facility with which they could obtain supplies. But, my lords, if the nation be poor, if it be deeply involved in debt, if it be loaded with taxes, and if it

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be oppressed by burthens which it scarce can bear, ministers will not dare (even for their own sakes) to involve this country in expensive wars, without provocation, or without necessity; for the nation would tear that minister to pieces, who, in the present situation of our finances, should involve this country in war, or attempt to lay on an additional load of heavy taxes, without sufficient cause. Our national poverty has therefore at least this one good attending it, namely, that it tends to make the governing powers of this country cautious to avoid wars, and to make them prudent from necessity. But this Bill of the minister that is now before the House, tends to subvert, as it were, this great system of nature. For though it does not make us rich, it takes from us any advantage which we might derive from our property. This Bill of Administration may, in its consequences, prove fatal to this kingdom. For, if it be not followed up by some other measure to make it permanent, and to render its operation certain and safe, it will tend to destroy one of the noblest gifts of Providence, inasmuch as this Bill will tend to destroy that security which we otherwise should have against the rashness of future ministers; and inasmuch as it will tend to destroy that necessity of doing right, which is our best preservative against folly, and our surest guard against imprudence.—If, my lords, the present or any future minister should come forward, with a wise measure to secure the sinking fund, and to insure to us and posterity the advantages of an unalienable plan for the redemption of our public debt; that minister will deserve not the praises, not the thanks, but the blessings of a grateful people. But, if it should unfortunately happen, that this measure before the House shall be the last, if no plan shall be adopted to render this important measure permanent, and to place this new sinking fund out of the reach of any profligate minister, and out of the reach of any corrupt and abandoned parliament; and if public bankruptcy shall ensue, with all its concomitant evils; I, my lords, shall have at least one (though perhaps only one) consolation left, that of reflecting that I had not contributed to those national misfortunes, and that I had done my duty by lodging my distinct opinion and forewarning upon the Journals of your lordships; and let those men who are possessed of power, and who shall neglect to use that power to secure the permanency of this great system, stand responsible to God and man, for all the fatal consequences of such neglect, and for the disasters and dreadful calamities which may befall their country.

Lord *Camelford* expressed his wish, that the House should proceed with such caution, as to avoid throwing the least discredit upon the Bill, or to give the world an idea that it was thought an imperfect measure. He well knew both the integrity of the noble earl's intentions, and his ardour in carrying into effect any measure which he thought was for the good of his country. He was fully persuaded that every word he had uttered came from his heart, and that they were the result of a laudable desire to assist in the great work of supporting the national credit. But the time of proposing such a resolution, was what he chiefly and entirely disapproved. He would not then go into a discussion of the arguments of the noble earl; neither would he discuss the resolution, which stood not in need of the authorities of great and respectable monied men, nor of any authority whatever, as it turned chiefly upon self-evident propositions. That the plan should be permanent was a matter which every one of their lordships must wish; but they all knew how impossible it was to make it more so than it was made by the Bill upon the table. With regard to the noble lord's proposal of paying off the 3 per cents at 90, he professed it struck him, that the plan of paying them off at the market price, as provided by the Bill on the table, was more advantageous for the public, because it made paying off in war time, the time most easy of discharging the debt.

Earl *Stanhope* said, that instead of finding reason for an alteration of his opinion in consequence of what he had heard, the noble lord's arguments would induce him to press his motion still more strongly on their lordships. He complained, however, of having been misunderstood, and stated in what particular, entering into an explanation as to the effect of the 10 per cent. advantage gained by the public in consequence of the compact proposed to be entered into with the public creditors. He illustrated his argument, that the public by gaining priority of redemption to the subscribers holding 3 per cent. stock, would give away what was in fact of no use or advantage to them, though extremely beneficial to the public creditor, by putting the case of a man living in

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London, having an estate in Yorkshire, which entitled him to a right of pasturing cows on a common where his estate lay. Having no cows in Yorkshire, the right of pasturing could be of no use or advantage to the London landlord; but if he sold that right to a person in Yorkshire, resident close to the common, he parted with what he could not himself derive any immediate advantage from, to a person to whom it proved a real benefit.

Lord *Camelford* admitted, that upon the public creditor giving up 10 per cent. of his principal, the public would find their advantage in paying him off first.

Earl *Stanhope* said, that he would meet the noble lord on the issue which he had himself stated. Let him shew him a shop that sold all manner of shop goods at 10 per cent. under the price charged by other shops, and he would in future confine his custom to that shop only.

Earl *Bathurst* lamented that they should hear in that House that as the Bill stood, the commissioners might gain money by gambling in the stocks. When it was considered who those commissioners were, what degree of credit and respect their characters must necessarily stand in from the offices which they held, and that they must always be a check upon each other, it was not possible for him to entertain any such suspicion, or patiently hear it suggested. Was it considered, that one of them was an officer, who for fifty years together, had bought and sold all the money belonging to the suitors of the Court of Chancery, which amounted to upwards of nine millions, and yet that officer (the accountant-general) had never once had his integrity impeached by the slightest imputation?

Earl *Stanhope* desired, in considering a great public question, not to be held out as speaking at all personally. The six commissioners named in the Bill were undoubtedly most respectable characters, and were above suspicion; but in arguing a question of that magnitude, it was his duty to look at possibilities. It ought to be considered that any one commissioner separately, or any individual in their secrets, might use their advantage improperly, and gamble in the stocks.

Lord *Sydney* did not feel it requisite to investigate the plan which the noble lord had stated to the House, as it was not at that time properly before them, neither would he enter upon any argument relative to the resolution moved by the noble lord, in which he was ready to admit that there were parts of which he entirely approved, and others to which he could not agree. All that he thought necessary, therefore, was, to consider in what manner he had best proceed to get rid of the resolution; but conscious of the extreme difficulty of persuading one so inflexible in his determinations as the noble earl to withdraw his motion, he should move the previous question.

Lord *Loughborough* was thoroughly convinced, from having listened to the observations of the noble earl, that all his future arguments, like the present, in that House would deserve the serious attention of their lordships in general. He was a little surprised at hearing the noble earl talk of binding future parliaments to any particular line of conduct. That was, he conceived, an unconstitutional idea. For the present, he was much inclined to support the proposition of the noble Lord high in office, and that because it was impossible for him to be ready on the sudden, to decide upon a resolution so important as that moved by the noble earl.

Earl *Stanhope* said, his aim was to get his resolution entered on the journals, as a test of his sentiments upon so important a subject. For that reason he would not withdraw his motion.

The Duke of *Richmond* having complimented earl Stanhope upon his lately written pamphlet, added that the plan therein suggested, was extremely different from that which he had just stated to the House. His printed plan went upon the proposition of paying off the 3 per cents at 75, whereas he had now suggested a scheme of paying them off at 90. The duke reasoned on these different plans comparatively for some time, and stated why he approved the plan of buying them up at the market price, as directed by the Bill on the table. He thought it a plan infinitely more likely to save the public money, and to support the national credit by raising the price of stocks.

Viscount *Stormont* said, that he never recollected a first speech in that assembly, which had come with more weight, or made a more evident impression on their lordships than that of the noble earl, notwithstanding which he must take the liberty of advising him to withdraw his motion, since it was impossible for their lordships to decide upon it without a proper knowledge of its extent.

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The previous question was put and carried.

Viscount *Stormont* begged to remind the House, that it was extremely necessary that they should have before them the Report of the Committee of the House of Commons; and he justified the measure, that he should move, viz. for a message to be sent to the Commons, "to know the grounds on which they had passed the Bill," by reminding the House, that on a former occasion the minister had laid upon their lordships table, minutes of the evidence which the Commons had heard at their bar, and which they stated to have been the grounds of their proceeding in the particular case alluded to. He concluded with moving a message to the Commons.

This occasioned a short conversation upon the practice of the House. Earl Bathurst resisted the motion as unusual, and rather beneath the dignity of their proceedings. Lord Sydney, and lord Hawke, were also against it, and in answer to what viscount Stormont had said, of the evidence heard at the bar of the Commons, having been laid on their lordships table, it was observed that it had been stated, that in the case alluded to, viz. the Irish propositions, the evidence heard by the Commons could not be considered as any authority deserving of the least reliance. At length the duke of Richmond drew a motion for a message to his Majesty, desiring that a copy of the Report might be laid before the House. This was ordered.

May 25. The House having resolved itself into a Committee on the National Debt Bill,

Viscount *Stormont* opened his remarks on the Report of the Committee of the House of Commons, by stating, that taking the income of one year instead of the average income of several years, was too narrow to build upon, when the erection was to be a fabric of such magnitude and importance, as the Bill upon their lordships table. He produced a paper on which he had written down the sums already voted under the head of supplies, and that in all probability would be voted, and setting them against the ways and means voted and to be voted, reasoned upon both as hypotheses, and declared, that if they were tolerably correct, the full balance to go towards the million of surplus, to be applied by the Bill, would amount, even after the India Company had paid their debt to Government, to no more than 25,000*l.* His lordship declared the whole of the plan was constructed like some pyramids, of which he had heard the superstructure was raised first, and the foundation was left to follow afterwards. He paid great compliments to earl Stanhope's plan, and contended that one of the first proceedings of the plan contained in the Bill, ought to have been to contract with the public creditors, to give them a right of priority of redemption, on their agreeing to subscribe to a condition of being paid off at the fixed price. He concluded with declaring that he would give the Bill his vote, not because he approved of the mode of beginning to pay off the national debt, but because he thought it expedient that it should have an immediate commencement.

Lord *Camelford* defended his former argument, and maintained that the idea thrown out by earl Stanhope of fixing the price of stocks below their present par, would not only be diadvantageous to the public, by raising the price of stock greatly, but would amount to a violation of the public faith, at which every honest man's breast ought to recoil. He reprobated the idea of fixing the 3 per cents at 90, and asserted that, compared with the plan contained in the Bill on the table, the noble Earl's scheme had not a leg to stand upon.

Earl *Stanhope* rose, to rescue his plan from the animadversions of the noble Lord. As to raising the price of stock, undoubtedly in proportion as the day of redemption was known to approximate, the price would increase, and on that account it was, that he thought the present Bill imperfect, inasmuch as it did not guard against the loss the public were likely to sustain, in consequence of the price at which the stocks were to be redeemed, not being by previous contract fixed with the public creditor.

Earl *Bathurst* asked whether such a doctrine was ever before heard of, as that the minister was to be blamed for having added to the public credit, and at the same time to private accommodation, in respect to borrowing of money, by occasioning a considerable rise in the price of stock. He objected against the plan of the noble Earl, declaring that heretofore it had been deemed an advantage that the redemption of stock was not near at hand,

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and therefore, it appeared to him extraordinary indeed to contend, that the public creditors would willingly pay a premium of 10 per cent. for a right of priority of redemption.

Lord *Loughborough* observed, that he should find himself excessively at a loss in what manner to argue, were the first principles of the plan of the noble Earl to be questioned. His lordship proceeded to take a comprehensive view of the subject. He made most handsome mention of lord Stanhope's pamphlet, declaring, that it had afforded him great pleasure and information; that its facts were strongly urged, its calculations demonstrably just and correct, and its reasoning clear and convincing. He explained the relationship which the price of stock bore to the real interest of money and its value, and contended, that it was absurd to take the estimation of the latter from the price of the former. He denied that the increase of the price of the 3 per cents from 58 to 72, was a proof of the great increase of trade. The increase of trade always produced a gradual, but not a rapid effect on the funds. He entered fully into the report of the committee of the House of Commons, and dwelt on the various parts of it, contending that they were grossly erroneous. He said that he could not speak so favourably of the Bill on the table, as his noble friend had done; because he feared it would be productive of most mischievous effects. His prejudices in favour of a Bill, professing so great and so desirable an object, had been at first so strong, that it cost him some struggles before he could surmount them, and look at the subject fairly, and with a view to the consideration of its real merits. Having examined it deliberately, he was convinced it might entail disadvantages, instead of conferring a benefit on the country, and that in a future war should we be obliged to sell stock, we should be buying cheap and selling dear; the one would act in an arithmetical, the other in a geometrical progression; a state either the permanence or extent of which might lead to irrecoverable ruin.

The Committee having gone through the Bill, it was reported, and read a third time.

The Speaker's Speech to the King on presenting the Bill for the Reduction of the National Debt.] May 26. The King being come to the House of Peers, and the Usher of the Black Rod being ordered to go to the Commons, and desire their presence, the Speaker of that House came to the bar, attended by several members. Upon presenting to his Majesty the Bill for the Reduction of the National Debt, the Speaker addressed his Majesty as follows:—

"Most gracious Sovereign;

"Your faithful Commons have passed a Bill, intituled, 'An Act for vesting certain sums in commissioners, at the end of every quarter of a year, to be by them applied to the Reduction of the National Debt;' by which they have manifested their attention to your Majesty's recommendation, at the opening of this session, for establishing a fixed plan for the reduction of the national debt.

"By the unanimity which attended the last and most important stage of this Bill, they have given the most decisive proof, that they have but one heart, and one voice, in the maintenance of the public credit, and prosperity of their country.

"The public credit of the nation, which is the result of just and honourable dealing, is now guarded by an additional security; and the future prosperity of this country will effectually be provided for, when it is considered, that, for the purpose of pleading the cause of the continuance of this measure most powerfully with posterity, your faithful Commons have, to the justice and good policy of it, added the authority of their own example:

"Qui facit, ille jubet."

"They have not been discouraged by the burthens imposed during the last ten years from submitting in the present time, and in the hour of peace, to new, and the possibility of other, burthens; their object being to attain a situation for their country more favourable to her defence and glory in the event of future emergencies.

"A plan so honourable in its principle, and so conducive to the future happiness and safety of the kingdom, must be, in the highest degree, acceptable to the father of his people.

"Under that confidence, in the name of all the Commons of Great Britain, I tender this Bill to your Majesty; to which, with all humility, your faithful Commons desire your Majesty's royal assent."

The royal assent was then given to the Bill.

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Debate on the Articles against Mr. Hastings—Conduct of the Rohilla War.] June 1. The House having resolved itself into a Committee of the whole House to consider further of the several articles of charge of high crimes and misdemeanors against Warren Hastings, esq., late governor-general of Bengal, Mr. St. John in the chair,

Mr. Burke begged a pause of a few minutes, wishing, on account of the great magnitude of the subject, to have the House as full as possible before he began what he had to say to the Committee. Soon afterwards,

Mr. *Burke*, rising again, solemnly invoked the House, to shew that justice which he contended was particularly due to the subject, as well because the national credit and character were deeply implicated in the issue of the business about to be brought before them, as for the sake of their own honour and dignity. He described the precise question to be decided; declaring, that it was an appeal to British justice from British power. The charge contained matter which must either be criminal, or a very false accusation: there was no medium; no alternative: the result must be, that Warren Hastings had been guilty of gross, enormous, and flagitious crimes, or that he (Mr. Burke) was a base, calumniatory, wicked, and malicious accuser. He enlarged upon the degree of guilt ascribable to that man, who should presume to take up the time of the House by rashly coming forward and urging groundless and ill-founded charges against a person who had been intrusted with high and exalted offices in the government of a part of our territories much larger and more extensive than the whole island of Great Britain. For any private man to suggest such charges, would be to be guilty of a scandalous libel; and for any man, while under colour of authority, to hurl the thunders of parliamentary vengeance at the head of an innocent individual, would be such an abuse of power, as would not fail to rouse the justice and call down the punishment of that House. There were but three motives which were known to actuate men and excite them to turn accusers; these were ignorance, inadvertency, and passion. By neither of these three had he been actuated: ignorance he could not plead, because he knew the subject as fully as the labour and study of five years could make him know it: inadvertency as little could he be charged with, because he had deliberately proceeded and examined every step which he took in the business with the most minute and cautious attention; and least of all could it be said, with any colour of truth, that he had been actuated by passion. Anger, indeed, he had felt, but surely not a blameable anger; for who ever heard of an inquiring anger; a digesting anger; a collating anger; an examining anger; a deliberating anger; or a selecting anger? The anger which he felt was a uniform, steady, public anger, but not a private anger. That anger, which five years ago warmed his breast, he felt precisely now: he was, in respect to the British government in India, exactly in the same situation in which he stood when he first took it up. Not all the various occurrences of the last five years, neither five changes of administration, nor the retirement of summer, nor the occupation of winter, neither his public nor his private avocations, nor the snow which in that period had so plentifully showered on his head, had been able to cool that anger which he acknowledged to feel as a public man, but which, as a private individual, he had never felt one moment.

The question which he was going to submit to their consideration was not a personal contest; it was a national and an imperial question, and not a trifling municipal regulation: it involved in it the honour of the country, and now, particularly, the honour and the justice of that House. They stood pledged by a resolution of a former day to bring it forward: let not their honour be tarnished, but let their character be safe; and let it be said, with respect to its justice, *esto perpetua*, whatever might become of him. He begged that the House would not regard the matter as a matter of party: there were no parties concerned in it, except the injured, the oppressor, and the accuser. It became their immediate duty to consider it in those three points of view. With regard to himself, he called upon the justice, the honour, the dignity of Parliament, to denounce their utmost vengeance on his head as the accuser, should it be found that he had dared to trifle with the sacred character of the British Legislature. He had made up his mind completely upon the subject, and was ready and prepared to submit himself to the severest punishment of that House, should it appear that he had wantonly and rashly pre-

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ferred a groundless charge. Should it be their opinion, that he had idly sported with their time, and with the character of the governor-general, he did assure the House, that he would not resist their vengeance; being once turned out of the door, he would not attempt to force himself in at the window, as other men had done. But in fact, what they had to vote that day, was not the case of Mr. Hastings: Mr. Hastings was out of the question, because matter of much higher import called for their decision. They were that day to vote a set of maxims and principles to be the rule and guide of future governors in India; what they determined, therefore, would decide the world as to their opinion of British justice and British policy.

The code of political principles of government which they should that day establish, as the principles of British government in its distant provinces, would stand recorded as a lasting proof of their wisdom and justice, or a test of their injustice and folly. Lord Cornwallis, who was now going out with great additional powers to India, would learn from the decision of that day what the system of government was, and what the principles were as the basis of that system of which the House approved. The distant dependencies had put their sword into the hand of Britain; be it then their business to hold it as the sword of justice, and not to turn it against the natives of India, and use it as the sword of vengeance, cruelty, and murder! The House would please to recollet the mode adopted by Rome as to the government of her distant provinces, so long as a spark of patriotism and public virtue remained in her bosom. The Roman empire was an empire of continuity, each province being either immediately or nearly accessible by land: they had likewise one general tongue to speak with, so that each man was able to tell his tale in his own way. This common tongue was Greek, which, with some of their own jargon, constituted all their language, so that they in a manner realized the miraculous gift of tongues. They had another advantage, rather a melancholy one, as it arose from the very circumstance of their being conquered, and it was, that the principal persons who accomplished the conquest, always acquired a property and influence in each new province by them subdued; and of course, the vanquished found patrons and protectors in the persons of their conquerors. Each province was also considered as a body corporate, and consequently each province was enabled to send their grievances to Rome collectively, and to state them as speaking with one mouth. Noble was the character of an accuser in Rome, and great the advantages which attended him in order to enable him to bring his charges home against a state delinquent, who was stripped of his power and even of all his rights of citizenship pending the prosecution, the better to enable the accuser to make out and establish his accusation. How wide was the distinction between this facility of coming at a Roman governor, with high crimes and misdemeanors, and the extreme difficulty of making out any accusation with effect against a British governor!

When he considered that Mr. Hastings had been for fourteen years at the head of the government in India, and that not one complaint had been sent home against him, he trembled at the enormous degree of power he had to contend with, to which alone could be ascribed the silence in question; since it was not in human nature, situated as Mr. Hastings had been, to preserve so pure, even-handed, and unimpeachable a conduct, as to afford no room for a single accusation to be stated against him. He mentioned also the never having seen the face of an Indian in this country, except a single Mahratta; and stated the difficulties which must arise, should any oppressed native of Hindostan madly venture to come to England to urge the complaint of the grievous oppressions under which he had laboured. These circumstances were additional reasons which ought to operate with the House, and induce them still more anxiously to convince all India by their decision, that they were the firm friends of freedom and justice, ever ready to relieve the oppressed and punish the oppressor. As to the charges themselves, excepting in some few points, the facts which they contained had been admitted by Mr. Hastings at their bar, in what he had called his defence, but which he had couched and delivered rather in the style of their master than that of the person they were accusing of high crimes and misdemeanors. He read a passage from Mr. Hastings's defence, against the charge relative to the affairs at Benares, and dwelt on it as an express avowal of a system of despotism and arbitrary power which Mr. Hastings declared

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he had uniformly made the rule of his conduct. It was repugnant to any principles of government that he had ever heard of, and most especially where the constitution of the superintending government was free. Mischiefs must necessarily arise from subordinate directors of provinces exercising arbitrary and despotic authority; and highly reproachable indeed was Mr. Hastings's rapacity after money: it was one of the prominent features of his government: and although he had told the House when at the bar, that he went out to India with his education but half finished, it was plain he had completed it in Bengal upon the true Indian system. Nor was his unlawful taking of money singly a crime in his mind; but Mr. Hastings having always contrived to make the India Company a party in his rapacious proceedings, was a very great aggravation of it, inasmuch as it cast an odium on the national character, by making a private vice appear to be ascribable to a public feeling.

With respect to the circumstances immediately precedent to the commencement of the Rohilla war, during its conduct and progress, and subsequent to its conclusion, he felt it necessary to observe, that had Mr. Hastings so conducted his government, as to leave a country which he found rich and fertile, increased in its cultivation and produce; had he left its venerable nobles in possession of their ancient honours and fortunes; its merchants in the pursuit of an improved and advantageous commerce, productive of a still more enlarged return of wealth and usury upon their capital; employed its husbandmen in carrying their victorious ploughshares into desarts and woods, and warring against that destruction, solitude and famine, which warred against mankind; he would in that case have said to the governor-general, "I inquire not into your particular conduct; I am satisfied with the result; I want not to know whether you made two or three or five hundred thousand pounds; keep what you have got: you have made a numerous people rich and happy; you have increased the commerce of the country; enlarged its means of wealth, and improved its revenues; in so doing, you have reflected honour and glory on the character of the British nation." Just such a people had the Rohillas been previous to their extermination; but alas! they were now banished, and their country no longer that luxuriant garden which every spot of it had been before the Rohilla war. He gave a history of the origin and life of Sujah Dowlah and Cossim Ally Khan, and entered into an ample statement of the affair of Nundcomar, and of all the facts contained in the charge; remarking, that sir Robert Barker had been offered 500,000*l.*, and the remission of an annuity of 250,000*l.* due from the Company before Mr. Hastings came out, only for employing the British brigade in the conquest of a small part of the Rohillas belonging to Haffez Ramet; and that Mr. Hastings had undertaken to extirpate the whole nation or tribe for 400,000*l.* Mr. Burke then moved to have the Resolution in May, 1782, which stigmatized Mr. Hastings's conduct, read.

The *Master of the Rolls* desired to know to what purpose the hon. gentleman wished to have the resolution read?

Mr. *Burke* said, his motive for wishing to have the resolution read, was, in order to clear himself from the imputation of having rashly and singly meddled with the subject, by shewing that the House had in very strong terms already reprobated Mr. Hastings's conduct in regard to the Rohilla war.

The resolution having been read, Mr. Burke rose again and gave his motion to Mr. St. John, who read it to the House.

Mr. *Wilbraham* hoped, for the sake of Mr. Hastings's honour, that the House would suffer the charges to go to the Lords; for there, and there only, Mr. Hastings could have what he said at the bar he was so anxious for, a full acquittal. Wonderful and transcendent were the conciliatory talents of Mr. Hastings, who had found means to conciliate sir Elijah Impey after a public quarrel; he had also found means to conciliate the hon. gentleman, who at this time with so much ability appeared as his agent in that House; and he had beside conciliated the right hon. and learned gentleman, who originally moved the resolutions, which they had just heard read. The hon. governor would, he had no doubt, make an ample display of his conciliatory talents in the House of Lords. An improper interpretation had been put on sir Robert Barker's having signed the the treaty with the Rohillas; but surely such an attestation could not fairly be construed into a guaranteeing of the treaty on the part of sir Robert.

Mr. *Nicholls* said, that the Rohillas were originally adventurers and a warlike peo-

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ple, but were neither the cultivators of the soil, nor the collectors of the revenue. They crossed the Ganges, and took possession of Rohilcund about the year 1741, and held the offices of power ever since, till the period of their expulsion in 1775. Mr. Nicholls justified every step taken by Mr. Hastings, and insisted upon it, that sir Robert Barker's attestation was with a view to guarantee the treaty. He ridiculed the idea that sir Robert only guaranteed the treaty on the part of the Rohillas, declaring that no man ever heard of a guarantee on one side only. Sujah ul Doula had been our ally, and our interests being necessarily involved in his, when it appeared to be his determination to make war on the Rohillas, we were obliged in a manner to join him; but the making the Rohillas cross the Ganges was not an extirpation any more than sending the Austrian army out of Austria would be an extirpation of the whole Austrian nation. He went through the history of the sale of the provinces of Corah and Illahabad, and justified the demanding of the five additional lacks of rupees, when the Vizier desired to suspend the war he had meditated against the Rohillas. He also justified that part of the charge relative to Mr. Hastings's conduct in regard to his secret manner of conducting the treaty of Benares, and summed up his speech, by declaring that he would give his negative against the question.

Mr. *Powys* declared, that he did not ascribe the strange nature of the question to any improper intention on the part of his right hon. friend, who had with such wonderful ability expatiated upon it; but he had imagined that the committee would not have been expected to do more than vote some general resolution that night, such as, that the charge contained matter of a criminal nature, or words to something like that effect. To explain what he meant more fully; the present motion enumerated almost every fact alleged in the charge as criminal. To that extent he was not prepared to go. Several of the facts did not appear to him to have been proved, or if proved, were not criminal; others, on the contrary, did appear to be criminal, and he was ready to vote them. If the right hon. gentleman would withdraw his motion and put it generally, as he had hinted, he would vote for it; if the present motion were to stand, he must go through its detail, and separate what he thought criminal, and was prepared to vote, from that concerning which he entertained a different opinion.

Mr. *Burke* begged leave to inform his hon. friend why he had drawn the motion in its present shape. The right hon. gentleman opposite had desired that the motion might be proposed, as nearly as possible, in the form in which he should be of opinion it might go to the Lords. Being therefore well aware that the Lords would expect the articles sent up as grounds of an impeachment, to contain a specific statement of facts and periods of time and place, he had drawn his motion accordingly; but he was not wedded to its form. If in addition to the hon. gentleman's opinion he should find it to be the opinion of the House, he had no objection to retire for a minute or two, and draw up a short general motion of the nature pointed out, and which, but for the reason he had stated, would certainly have been the form in which he should have introduced it.

The Chancellor of the Exchequer joining with Mr. Powys, and likewise Mr. Wilberforce, those gentlemen, as well as Mr. Fox, suggested different forms of motions, so as to meet the general idea; whereupon Mr. Burke withdrew his first motion, and substituted the following, "That this committee having considered the charge of the Rohilla war, and examined witnesses thereupon, is of opinion that there is ground for charging Warren Hastings, esq. with high crimes and misdemeanors upon the matter of the said charge."

Mr. *Powys* then resumed. He declared, that the part of the charge which related to an imputation of cruel treatment to the prisoners had not been proved or brought home to Mr. Hastings. He stated what facts he thought had been proved, and especially that of extirpating the Rohillas. He answered Mr. Nicholls's argument, that forcing the Rohillas to cross the Ganges was no more the extirpation of a nation than obliging the Austrian army to quit Austria would be extirpating the Austrian nation. He asked what the learned gentleman would think if the militia of England were compelled to quit the island of Great Britain? He read some extracts from Mr. Hastings's own letters, and declared that upon the whole he saw no ground to impute either personal or vindictive motives to Mr. Hastings; and therefore, though he should vote for the motion, he begged to be un-

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derstood as by no means pledging himself to vote for the other charges, or to vote for carrying up articles of impeachment to the Lords, merely on the single ground of the present resolution. He also alluded to the circumstance of Mr. Hastings having been appointed three several times by the same administration, after the affair of the Rohilla war, and said, it was undoubtedly a circumstance in his favour; but what must the House think of the conduct of that Administration, who could not but know of all the criminal facts stated in the charge of that day, and yet continued to employ him?

Mr. *Montague* observed, that the recovery of the forty lacks of rupees due from the Rohillas to Sujah ul Dowlah, was the only apparent and ostensible reason for commencing the war upon that people; but it was evident there had been some other reason, which ought to be known and stated.

Lord *North* observed, that he felt it highly requisite to explain a matter personal to himself, and alluded to by an hon. gentleman. His lordship then gave a circumstantial account of his conduct while at the head of administration, relative to the appointment of Mr. Hastings three several times. When the Bill appointing a new constitution for the East India Company, and abridging part of the powers before enjoyed by the directors, was before the House, he moved to nominate Mr. Hastings for five years president at Calcutta, and after that time the power of nominating their chief servants in India was to revert to the court of directors, and be by them enjoyed as before. By the same Bill general Clavering, Mr. Monson, and Mr. Francis, had been appointed (and a better council had never been sent out), and at that time the news of the Rohilla war, and all its circumstances, had not reached England. Soon after the arrival of the new council in India, they sent home complaints against the governor-general on the subject of the Rohilla war, stating such facts as had then come to their knowledge. As soon as he was apprised of those facts, he thought Mr. Hastings's conduct highly censurable, and he sent to the court of directors, and desired them to make every possible exertion for the recall or dismission of Mr. Hastings. The court of directors condemned Mr. Hastings's conduct as much as he did; a court was called, and his dismission resolved on. That vote of the directors, however, was rendered abortive by the court of proprietors, among whom Mr. Hastings had so many friends, that they sent back the vote of the court of directors, and kept Mr. Hastings in his situation. No other means for removing him, therefore, could have been resorted to, but his bringing in a new Bill to alter again the constitution of the East India Company. That, as their constitution had been so lately settled, he did not think it advisable, because, if any alteration had been made, he must still farther have encroached on the powers of the court of directors. At a subsequent period, two gentlemen (Mr. Grant and Mr. Macleane) came over from India, and made it appear to the court of directors that they were authorized to make a tender of Mr. Hastings's resignation. The court accepted the resignation, and Mr. Wheeler was appointed to succeed Mr. Hastings; but, on their return to Calcutta, Mr. Hastings refused to acknowledge that he had given the gentlemen any authority to tender his resignation, and would not give up his office. In 1778, when a new bill was necessary to be passed, the French war commenced, and he did not think that a fit time to make an alteration in the constitution of our government in India, and considering Mr. Hastings as a man of abilities, he continued him in his government. For his own part, he had, ever since he first heard of the Rohilla war, uniformly condemned it; and one reason for his not recalling Mr. Hastings, was an expectation that he would voluntarily resign, from knowing that the court of directors continued to condemn his acts, and he (Mr. Hastings) to declare, that he should disdain to hold an employment under those who reprobated his measures.

The Earl of *Mornington* expressed his surprise at the extraordinary reasons which the noble lord had assigned for his having three times appointed Mr. Hastings to the chief place in the government of Bengal, subsequent to the Rohilla war. First the noble lord had said, that he knew nothing of the Rohilla war till lately: this was an extraordinary declaration from a noble lord who had been at the head of his Majesty's councils at the time; for who ought to know such a fact, but an administration possessing the then newly-given control and inspection over the Company's affairs and dispatches? Next, the noble lord had expressed great delicacy with regard to interfering with

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the East India Company's constitution. He was glad to hear the noble lord's delicacy on that subject had been of such antiquity; he presumed, therefore, that it had been owing to that subserviency which a right hon. gentleman had lately talked of exacting from all those parties, which coalesced with him and his friends, that the noble lord had condescended to pursue that line of conduct that he had followed in respect to a bill relative to the East India Company, which was not a little famous in that House and throughout the country. The noble lord had stated to the House, that the court of directors condemned every one of the acts of Mr. Hastings, and therefore the noble lord thought it would be wrong to turn him out of his government! A most extraordinary reason, with an explanation to which he should hope that the noble lord would favour the House, not without stating (what he had hitherto omitted) his sentiments concerning the subject of the present debate.

Lord *North* answered, that with regard to any delicacy which he felt about the East India Company's constitution, he did not recollect to have put the question on delicacy; and as to chartered rights, he had not said one word about them. If the noble lord wished to know why he did not move or take a part in supporting that bill during the war, he was ready to admit, that the moving it when it was moved did him no good; and the loss of it was, in his mind, a great public evil. Had it been moved in the war time, it certainly would not have made his administration more firm. With regard to his opinion on the present question, if the noble lord would have the patience to wait till he voted, he would then discover the nature of his opinion, to guide him in which he felt it necessary (and perhaps the noble lord stood in a similar case) to hear more arguments.

Mr. *M. A. Taylor* elucidated the doctrine of guaranteeship, proving from thence that the Company were by no means guarantees to the treaty between the Rohillas and Sujah ul Dowla, and of course that Mr. Hastings had no excuse whatever for entering into a war with the latter against the former. Sir R. Barker had told them at their bar, that when he signed the treaty he had not done it with any intention that it should make the Company guarantee to that treaty, but simply as an attestation. He pointed out what he thought necessary to constitute guaranteeship—that there ought to be three parties to the treaty, the two contracting parties, and that which was to guarantee: that the relation of the parties to each other should be specially recited, and of course the intention of one of the parties to become guarantee be fully set forth, and that without such recital and particular specification there could be no guarantee, and any signature could only stand as a simple attestation.

Mr. *Windham* contended, that as sir Robert had declared that he signed the treaty merely because otherwise the Rohillas would not have had faith in the Vizier, if sir Robert was to be considered as a guarantee at all, it must be as a guarantee and security to the Rohillas. But putting that circumstance out of the question, Mr. Windham asked, whether it was pretended the Rohillas had violated the treaty? No such pretence was urged, and therefore Mr. Hastings was left without excuse for his conduct in having employed the British arms to attack and extirpate a nation or tribe, who had given no offence to the British forces or the British civil government in India.

Lord *Mulgrave* defended the conduct of Mr. Hastings, declaring that he could make out the policy, and would assume the justice of it. He rested his argument upon the customs of the East, where treaties were generally negociated sword in hand, and the commander in chief was usually deemed by the native princes the supreme power. This he applied to sir Robert's having signed the treaty as a mutual guarantee between the nabob vizier, our ally, and the Rohillas.

Mr. *Hardinge* said, that his own feelings and his duty to the public, had, after the most mature consideration, determined him as to the vote he should give on the present occasion, which should certainly be in the affirmative of the motion before the House. He flattered himself that there was nothing in his general conduct and character that could subject him to a suspicion of being influenced either by personal acrimony against Mr. Hastings, or by the tide of party prejudice. In fact, his only aim was to promote the true interest of his country, the honour of that House, and the distribution of impartial justice. He was sorry to see a tendency in some of those gentlemen who had spoken against the motion, to adopt those pernicious principles with which the House

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had been poisoned at the time of the inquiry into the conduct of lord Clive; when it seemed to be laid down as a fundamental maxim, that in the administration of public affairs, no sort of weight ought to be given to the calls of conscience or of honour, and that morality and good policy were totally incompatible with each other. The charges against Mr. Hastings were of a very serious and alarming nature, and such as the justice of the country was loudly called upon to bring to the strictest trial. He should not then pretend to say whether he, in fact, thought Mr. Hastings guilty of the crimes imputed to him; he sincerely hoped he might finally be acquitted of them all: but he was fully convinced that the charges were of sufficient force, and the *ex parte* evidence produced in support of them sufficiently clear, to make it indispensably necessary for that House, in discharge of its duty, as the grand inquest of the nation, to send the inquiry to a tribunal in which the evidence on the other side might also be examined, and a just and proper result might follow. This was not only due to the public, but to the two gentlemen principally concerned—as well to Mr. Hastings, as to the right hon. gentleman who had instituted the proceeding. And he hoped that the House would take care that they should leave no room for a suspicion that they intended to screen a public delinquent from trial, which would be the only interpretation that could be put upon their giving a negative to the question. Such a conduct as this would affix a stigma, not only on that House, but on the country at large; a stigma that would cling to the nation like a poisoned shirt, defiling and polluting its reputation, not merely for the present moment, but when the divisions of the now existing parties should have been buried in oblivion, and that would descend as a legacy to our remotest posterity. Mr. Hastings had already shewn himself too great for his masters, the court of directors; he had shewn himself too great for his Majesty's ministers (and, by-the-bye, he could not reflect upon the circumstances of that triumph, without expressing the most marked reprobation of the conduct which the noble Lord in the blue ribbon observed on the occasion of it), and he had even been great enough to resist, with success, the censure of that House: but he hoped, great as he was, he would not be found powerful enough to baffle and confound the highest authority of the state which was now called forth against him; and to prove that it was possible for a subject of this country to create a degree of influence for himself which should protect him, not only from punishment, but even from inquiry. The greatness of Mr. Hastings was of a peculiar nature, and might be collected from that extraordinary composition that was called his defence, in which his true character was pourtrayed in as precise a manner as the British language could admit it into description. In that defence he had fully and clearly detailed to the House the system and principles by which his government had been conducted. That system and those principles were such as he by no means approved of, and such as naturally must have led Mr. Hastings into measures similar to those which were then the objects of inquiry. He had justified his conduct rather by its necessity than its propriety, and made notable use of the court of directors. Mr. Hardinge pointed out three several uses which Mr. Hastings made of the court, and to which he desired the particular attention of the House. As one of these uses, Mr. Hastings had attempted to show that the censures of the East India Company were the only punishment which he ought to expect, and that their approbation was a full and complete acquittal. He had also put in a plea, which from the beginning he feared would be relied upon, and which on a former occasion he had deprecated—the plea of a set-off. His merits, whatever they might have been, would certainly be very proper grounds for the Crown to proceed upon in extending its mercy to him in case of conviction; but by no means a ground for acquittal on his trial, much less of declining to find the charge against him in order to the instituting a prosecution. He ridiculed the idea of Mr. Hastings laying any stress on the recommendation of him to his Majesty by Madagee Scindia, a person with whose character he was well acquainted, and whom he knew to be a man of such principles as rendered his good opinion of no manner of consequence. Mr. Hardinge now entered more particularly into the charge then before the House. He went over the subject of guaranteeship, in which, he said, he perfectly coincided with Mr. Taylor. He instanced several treaties in the East Indies to which the Company

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were guarantees, which were not done by simple signature and attestation, but in the ordinary way, by making the guarantees a party to the treaty; and another treaty to which the Company in the person of one of their servants had given their signature, to which treaty they were not held either by themselves or the parties to be guarantees. This plainly proved that a simple signature was not sufficient to create guaranteeship. He enlarged on the Rohilla war itself, and observed, that a noble lord (Mulgrave) had taken a very curious mode indeed of debating that question; for he had avowed that he would confine himself solely to the necessity of that measure, and assume the justice of it. This was a very broad assumption indeed, and for his part, he should take a very different course; for he would leave entirely out of the question the necessity, and would prove the injustice of it. He concluded with saying, that although the *ex parte* evidence before the House was such as made it absolutely necessary for them (unless they meant to screen a servant of the public from inquiry, notwithstanding the amplest grounds of suspicion) to find the article; yet he was not without hopes, that Mr. Hastings would on his trial be able to produce such evidence on the other side, as should procure his honourable acquittal.

Mr. *Fox* rose; but there being a general cry of "Adjourn!" he said, he thought the cry a very proper one, and such as he should willingly give way to, as he had much rather say what he wished to offer to the House another day than then, and the more especially as he could not promise to be very short.

The House accordingly adjourned.

June 2. The House having again resolved itself into the Committee, Mr. St. John in the chair, the adjourned debate was resumed.

Mr. *Francis* adverted to the insidious surmises thrown out touching the improper motives of the most strenuous opponents of Mr. Hastings; he enumerated those persons who had chiefly distinguished themselves by such opposition. Sir J. Clavering and col. Monson were gentlemen whose characters, he was convinced, stood as high in the opinion of all men, as it was possible for their best and dearest friends to desire them to stand. He meant not to describe them in terms of high-flown panegyric, but in plain English; he believed them to be two of the most incorruptible men that were ever entrusted by their country in high stations. They were men who carried from England to India characters unimpeached, and they were men to whom their residence in India had brought an accession of fame, by the display which it had given of their integrity and independence. These gentlemen, as well as himself, went forth to India, not only well disposed to Mr. Hastings, but actuated by high reverence for his abilities. So far from having previously designed and settled the opposition which they afterwards gave to his measures, they went forth with confidence in the virtue and good intentions of Mr. Hastings, that he would cheerfully co-operate with them in establishing the new constitution which they carried out. It was a fact which came within the knowledge of several persons in this country, that in order to conciliate the mind of Mr. Hastings to the new government, and to show that it was not their wish to institute a captious opposition to his measures, sir J. Clavering asked in the closet for some mark of his Majesty's favour to carry out to Mr. Hastings, that he might know and feel that in abridging the power of the governor-in-chief, there was nothing personal against Mr. Hastings. There was no jealousy nor enmity in the breasts of sir J. Clrvering, or of col. Monson, arising either from ambition, or from rivalship. They did not look forward to the recall of Mr. Hastings as the means of their own aggrandizement. And if they did not covet the situation of Mr. Hastings; if they were not within its reach, how much farther was he from the possibility of reaching it if he had the ambition; and how far therefore must he have been from opposing Mr. Hastings on that ground, if he was possessed either of common sense or of reason! It was not the effect of preconcert; it was not original ill-will, or enmity; it was not previous bad opinion; but it was the observation and scrutiny of the measures of Mr. Hastings which determined general Clavering, col. Monson, and himself, to oppose the sanguinary system. Concerning the motives of his right hon. friend who had brought forward the present charges, he might speak with equal confidence. He, surely, could not be moved by ambition or rivalship; he could have no desire to fill the station of Mr. Hastings, nor any personal reason to oppose his government. As it was im-

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possible that he could be benefited by the opposition; as it was impossible that he could have any interest in bringing forward the present laborious inquiry, unless the committee admitted that his motive was public justice, the love of humanity, and the detestation of crimes by which millions were doomed to suffer; to what possible source could they trace the present inquiry, and the steady opposition of his right honourable friend? There was but one other source, and that was insanity. With respect to the Rohilla war, he felt it necessary to observe, that the argument of Mr. Hastings, "that the Rohillas were not a nation," was fallacious in the extreme. They were a people capable of sending 60,000 fighting men into the field. A body capable of doing that, merited, in his mind, the name of a people. What must the number of that people be, who, exclusive of the women, of the old men, and of the children, were capable of sending an army of 60,000 into the field? They were a people numerous and happy, habituated to industry, and possessing the comforts of a well-cultivated and a prolific country. Such was the people Mr. Hastings made a solemn contract with Sujah Dowlah to exterminate. Contrary to the orders of the Company, contrary to policy, contrary to justice, he employed the arms of the Company in the inhuman office of extirpating this whole race of men. Mr. Francis examined the answer of Mr. Hastings to each of the charges. He denied that the signature of sir R. Barker could be considered as a guarantee, and he averred that the whole was no more than a covenant and contract to extirpate the people for forty lacks of rupees. He endeavoured to shew, by passages from the evidence of col. Champion, that the war was conducted with as much inhumanity as the principle on which it was begun; and having urged these things from the evidence of those who had been employed by Mr. Hastings, and who had been examined at the bar, he recalled an expression of his right hon. friend (Mr. Burke), that in the decision of the House on this question there was no middle path. There was no justifying the conduct of Mr. Hastings, and leaving that of his right hon. friend without a stain. If his right hon. friend thought this, how much more must he consider himself involved in the decision, since he not only now most steadily agreed with him, and seconded him in every one of the charges he had brought, but through the whole of his residence in India he had opposed the measures now adduced as matter of accusation against that gentleman. He desired therefore to be considered as implicated in the question, and that his honour and opinions were at stake. Nor were his only; the opinions and honour of his lamented friends and colleagues, sir John Clavering and col. Monson, were also involved; and gentlemen, in deciding this day on Mr. Hastings, decided upon all.

Mr. *W. W. Grenville* said, that this being an adjourned question, he should take the liberty to animadvert on what was said the day before by his learned friend (Mr. Hardinge), who had imputed to a noble lord near him, that he had assumed the justice, that he might debate the policy of the war. With deference to his learned friend, he must be permitted to say, that it was essential to the argument on the policy, that the justice should be admitted. The justice of the war was a question to be discussed; but undoubtedly in the discussion of the whole of the charge respecting the Rohilla war, it was essential to argue simply on the policy, without reference to the justice. For his own part, he was ready to avow his opinion, that he thought the war was perfectly just, as well as politic. The Rohillas were situated in the adjacency of the Vizier's dominions, and the Vizier was our barrier against the Mahrattas. It was certainly a matter of policy to strengthen the frontier, and in all questions of war between independent nations, the conqueror would not think himself bound to measure his redress merely by the aggression, or to proportion his gain to the injury he had sustained. The Rohillas refused the payment of 40 lacks of rupees to our ally the Vizier; perhaps strict justice required that no more than these 40 lacks should have been demanded from them; but conquerors think themselves justified in asking for more than the sum of the original injury. Of this principle between independent nations at war, it would be idle to call for instances; it was universally prevalent. In the peace of 1763, we had manifested it. The French were the aggressors; they had made some encroachments on the back of our American settlements; but in the war, Providence having crowned our arms with success, we demanded and procured, on the peace, the surrender of the whole of the

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French possessions on the continent of America. The question was not therefore so much about the consequences of the Rohilla war, as about the original justice of it. What was the precise case? Our ally, whose dominions we had by solemn treaty agreed to guarantee, received an aggression. He was injured by a set of people who had it in their power to be his dangerous enemy. They might join with the Mahrattas, and from that moment his country was insecure. They owed him a sum, of which they refused him the payment. There was both an aggression and a political alarm. The Vizier had cause, not only for resentment but jealousy; and the English having the same political interest, as well as being bound by treaty, were of course obliged to go with him into the war. The justice and policy of the war went hand in hand; that war was just which originated in an aggression, and that war was political which seemed to strengthen a frontier, to take off a suspicious and ill-disposed neighbour who had it in his power and who betrayed the inclination to favour the views of an avowed enemy. If, therefore, we admitted the justice of the war, we had nothing to do with the conduct of it. It was no more possible to charge Mr. Hastings with the cruelties committed under the auspices of Sujah Dowlah in Rohilcund, than to charge him with the enormities committed by the Mahrattas in the wars in which they were engaged. It was impossible to calculate to what absurdity this doctrine would proceed. Mr. Hastings certainly might, turning the arms of England against his ally Sujah Dowlah, have checked his inhumanities; but he had no other means. Mr. Grenville contended, that the Company were bound to guarantee the treaty between the Rohillas and the Vizier; and as that turned the whole of the question, the fact precisely was, that in the treaty to which sir R. Barker put his signature, the Rohillas would not trust the Vizier, whom they considered as faithless; nor would he trust them; he branded them with every epithet of treachery: and in this mutual distrust the English became the guarantee. The attempts made to explain away the validity of this treaty, and particularly to explain the share which sir Robert Barker had in it, as not pledging the Company, were not satisfactory to his mind. The Company, in his opinion, were pledged; and though the thing was not concluded with all the formality of an European treaty, it had all that the customs and usage of India required. It was needless to enter upon all the extraneous matter which had very improperly been introduced into this question. He considered it as highly improper that on the day when they were arguing on a single article of the voluminous body of charges, the right hon. gentleman should have gone at full length into all the matter of accusation which he had brought; and no less than three-fourths of his long speech the day before had been occupied with the enumeration of matter not applicable to the Rohilla war. In like manner his learned friend had indulged himself, and had again alluded to that great character, lord Clive, to insinuate that general character was not to be set off against particular charges. He said he had found himself fully occupied in making himself completely master of the single charge before the committee, and he thought it highly indecorous that any other matter should be coupled with that article. The result of his very deliberate investigation of this question, was, his conviction of the perfect innocence, and of the merit of Mr. Hastings.

Mr. *Hardinge* remarked, that he certainly had accused the noble lord with inverting the true order of the discussion in regard to the justice and the policy of the war; for he had assumed the justice, in order to debate on the policy; whereas, in his opinion, it was his first duty to prove the justice, in so far as no war could or ought to be held as political, the foundation of which was not wise. In regard to his mention of lord Clive, whose name by-the-bye he never did mention without profound reverence for his memory, he had done it only to shew that the House had not considered general good character to weigh with them against particular charges.

Mr. *Anstruther* pronounced it ominous to the government of India, that two members of the new Board of Control should have given an opinion so decidedly for the system which this House had already, oftener than once, and in terms peculiarly strong and pointed, reprobated. He ridiculed the idea of justice, which, with a view to establish this point, the hon. gentleman had broached. There was a tribunal for individuals, but none for nations. Was there, then, no law by which bodies of men acting in a social and political capacity were bound to act

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with fidelity and confidence in their mutual intercourse? Was Mr. Hastings, in the situation of governor-general, superior to right and wrong? The obligations of justice were fundamental. They originated in nature, and were not to be violated by any subsequent or adventitious system whatsoever. He desired the committee might recollect that Mr. Hastings was accountable, if not to the directors, to his country, or to parliament, at least to his Maker, for the use which he made of the powers he possessed. If these were exerted in instances of violence and outrage to his fellow-creatures, would not He who made them, as well as him, require their blood at his hands? He trusted we should hear no more of the justice of the Rohilla war. He was astonished to hear of the treachery and refractory tempers of these people, and that the recovery of the money they owed to Sujah Dowlah was the sole cause of making war upon them. Who were guarantees for that debt? Even supposing that the English were, by the signature of an officer in the Company's service, who happened to be on the spot when the negociation was concluded, and who put his name to the deed as a witness; by what means was the party failing dealt with for inforcing the terms of the agreement? Was any remonstrance made on the subject prior to the commencement of hostilities? But, after all, what concern had we in the enmities and feuds, or projects of Sujah Dowlah? Surely not any to warrant the subsequent steps pursued against that harmless, but devoted, people. Besides, how were their territories marked out? By a cool geographical line of destruction, a beautiful, compact country, lying between the mountains and the Ganges, was entirely proscribed. He reasoned against the principle or system on which that sanguinary and peculating government had been conducted. He contended, that notwithstanding all he had heard, the facts were all against Mr. Hastings, and that he could not therefore in justice to the country, to himself, or the great cause of right, as opposed by wrong, but vote for the question.

Mr. *Young* stated, the difficulties which occurred to him against voting on the question in its present form. He therefore proposed an amendment, that after the words of the original question these should be added, "and for impeachment thereupon."

Mr. *St. John* said, as the House had already voted that the present words (which had been moved by way of amendment the preceding day) stand part of the question, none of them could, agreeably to the order of the House, be left out.

Mr. *Pitt* assured the hon. gentleman that his motion was unnecessary, as the word 'charge' in the original amounted exactly to the same meaning as the word 'impeachment.'

Mr. *Fox* agreed in this opinion.

Mr. *Young* explained more fully what he meant by his amendment, declaring he was a professed enemy to the trial of the earl of Strafford, where the impeachment was made from a congregation of a variety of minor charges. In this case he wished not to agree to collect a number of *peccadilloes* to furnish out one *peccatum*. If each article separately was sufficiently criminal to deserve impeachment, he would agree to vote that it contained matter of charge fit for impeachment, but not otherwise.

Mr. *Fox* declared, that as a judge, he detested and abhorred the conjoining many *peccadilloes* to make one *peccatum*; but the case was widely different when he was acting as an accuser.

Mr. *Scott*, of Weobly, persisted, that it would be the highest injustice to vote general resolutions like that before the committee, instead of specific charges. He assigned as a reason, that it might happen, if they persisted in the present mode of proceeding, that they might vote twenty-two general resolutions, whereas if they were to divide each of those general resolutions, into their specific charges, no one of them might be voted by the majority of the House. Mr. Scott replied rather pointedly to a remark of Mr. Fox's the preceding day, who had said, that he would always watch that profession in their arguments.

Mr. *Fox* declared, that none but a fool or a madman would despise or hold the learned profession in contempt. He had a very high respect for it, and for the learned gentleman in particular, whose great abilities and high character entitled him to the respect of every man. He assured the House and the learned gentleman, that he meant nothing more, by saying, "he would watch the arguments of gentlemen of that profession," than that the gentlemen of the law, from being in the habits of a peculiar style of reasoning, were apt to infuse that style into their arguments in that House.

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After a desultory conversation of nearly three hours continuance, Mr. Pitt moved to withdraw the proposed amendment, and to add the words 'by impeachment' to the motion; which, after a fresh conversation, was agreed to. The debate on the main question then proceeded.

Mr. *Burton* made an elaborate defence of the conduct of Mr. Hastings upon the subject of the Rohilla war, tracing every step of the business, and justifying it with strong argument. He argued that as the ally of Sujah Dowlah, we could not avoid entering into the Rohilla war. He detailed all the circumstances of that war, and concluded with a panegyric on the merits of Mr. Hastings. His abilities, he said, were shining and commanding; and he was not more remarkable for genius than for humanity. With respect to the charges of cruelty, Mr. Burton said, he was well assured that no such imputation could attach to Mr. Hastings, whose characteristic was humanity almost to womanish weakness.

Mr. *Wilberforce* thought that the Rohilla war was undertaken by Mr. Hastings unnecessarily, and prosecuted with cruelty; but he did not believe that this cruelty was imputable to Mr. Hastings, any otherwise than he had employed, or at least empowered a man so vindictive and cruel as Sujah Dowlah, to be the instrument of that war. The guarantee he considered merely as a specious plea. It amounted to no more, and could not, in any sound reasoning, be said to have pledged the British faith to the Vizier, to assist him in his rapacious scheme on the Rohillas. Thinking as he did with respect to the question of the Rohilla war, he must, of course, agree to the present motion; but, on the general question for the impeachment of Mr. Hastings, he confessed he should hesitate. The Rohilla war was a subject of so long a date, that he felt himself unhappy at the idea of raking it up after such a length of time. It was the duty of the noble Lord in the blue ribbon, who understood the whole of the business so well, and who was the minister at the time, to have recalled Mr. Hastings. The answer which he had given to the noble lord who had charged him with this neglect of duty, had not been answered to his satisfaction. But it was not the length of time that had elapsed only which influenced his mind. The subsequent merits and general character of Mr. Hastings weighed with him against particular errors. He had left our affairs in a more prosperous condition than they had been in for years before, and he had spent his life and injured his health in our service. To punish Mr. Hastings now, was like eating the mutton of the sheep which we had previously shorn of its fleece. Certainly we ought to have recalled him when he committed the fault; but having suffered him to wear out his constitution in our service, it was wrong to try him when he could be of no farther use. Of the criminality of Mr. Hastings in regard to the Rohilla war he was perfectly convinced. The original contract was certainly not so much for the recovery of a sum of money as for the extirpation of the people; and it was a pitiful and ridiculous thing in us to question the title of the Rohillas to the country which they possessed. Their title was the same as our own, derived from the sword. What were we but the Rohillas of Bengal? It was a contract not defensible, for an end inhuman and scandalous.

Mr. *Fox* rose next, and said:

Mr. St. John;—I rise at this hour, to express what I think with regard to this business, after combating two days about the form in which it should be put. It is indeed to me of very little consequence, in what shape the question is brought before us: I want only to come at the ground upon which the matter stands; I wish only to meet the thing itself fairly and openly; the participation, the guilt, the criminality which may justly be imputed to Mr. Hastings, with regard to the war with the Rohillas—a war carried on to their ruin, destruction, extermination, or any other name you may please to give it, for it was certainly more than conquest. This is the object to which I have done all in my power to call the attention of the House; and I must confess that I am not a little surprised that it has been so much evaded, as it certainly has been, and that in a manner extremely marked.

The first charge exhibited by my right hon. friend, appeared not to meet the wishes of the House. A charge specific of particular facts, was called for—this was complied with. My right hon. friend brought a charge entirely of the nature and description of what had been demanded: it was then thought more agreeable to gentlemen to move a question upon the charge as it originally stood: this was acceded to with equal facility.

Had I foreseen the use that would have

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been made of these concessions, I would never have consented; I do not mean that my consent would have been of any avail, but I would have debated to the last, rather than suffered the motion to take the form it has now assumed. It has, indeed, always been my opinion, that the best mode of proceeding in this business, was to move a general question, whether the whole of the charges contained matter of impeachment; and if this should be the opinion of the committee, to consider what particular articles were to make a part of this impeachment; and had it not been that I confided in the declarations of the right hon. Chancellor of the Exchequer, I would have still persisted in this manner of taking up the business. It is my opinion that the number, as well as the weight of the crimes that might be found, should go in the minds of gentlemen who form a resolution for impeachment; that the crimes should be great and enormous; and that not only should they bear that character, but that they should be in number very considerable, in order that the aggregate and not the individuals alone, might form ground for inducing this House to present them before the House of Peers, in the only mode in which they can charge any man, that of impeachment. The Chancellor of the Exchequer professes entirely to agree with me in this point; he has declared that he does not consider the vote upon this article, or any one article, as pledging gentlemen to impeach, if upon a retrospect of the whole, after having gone through each, they do not find grounds to lead them to such a determination.

But although the right hon. gentleman professes this to be his opinion, I must contend he means something else; why, otherwise, would he be so much for retaining the word 'impeachment' at all in motion? If, as he declares, the vote is solely whether there are high crimes and misdemeanors imputable to Warren Hastings, in this charge, that word can only tend to mislead, and occasion a sense of the motion before the House different from what it really is in its true intention. As I have said a good deal upon this in the course of the evening, I beg only that it may not be misunderstood by gentlemen, and that the motion may be taken in the sense explained by the right hon. gentleman to be his sense, and which certainly is mine, that every gentleman who is convinced that Warren Hastings is criminal, highly criminal with regard to the Rohilla war, ought to vote for the question. Much blame has been thrown by an hon. gentleman (Mr. Wilberforce) upon my noble friend in the blue ribband for not recalling Mr. Hastings at the time he blamed him, as he declares he did, for the Rohilla war. The fact is, the noble lord did desire to recall Mr. Hastings, but he was withstood by those who were Mr. Hastings's immediate masters. He did all in his power; he sent out general Clavering, Mr. Monson, and Mr. Francis, to examine into his conduct, and to be a check upon the violence of his proceedings. The effect has been as he foresaw, and it has brought to light those actions which are the subject of inquiry this day. My right hon. friend too, who brought forward this charge, has been accused of a persecuting spirit; of bringing forward actions that had been passed over, and which it was right to bury in oblivion. Such imputations, I believe, my right hon. friend will not much regard; but when the hon. gentleman complains of Parliament, it is too much to pass it over in silence. This business was first inquired into, in the committee of secresy, in the year 1782; it was then censured, and severely censured; and although it was a transaction that had happened so many years before that period, it was not made known to them as a subject of inquiry before the appointment of that committee. It was in consequence of the facts that were discovered by that committee, that the resolutions reprobating the conduct of the governor-general, were passed by the House of Commons. My right hon. friend, it is true, moved for several papers; some were granted him, many were refused; but the whole had its origin in the year 1782. But why should not the conduct of Mr. Hastings be entered into? If by the resolution of the House not to inquire into the transactions of the year 1781, an act of grace was passed, was all his life to be exempted; or was it only that period of it, between the year 1781, and the year 1782? Certainly there must be some time for this purpose; and if the hon. gentleman could prove that the Rohilla war was after this time, in which no inquiry was to be made, he might do something; but let this be left to those who are convinced of the guilt of Mr. Hastings and do not choose to condemn him, as their last subterfuge; but to which, it is to be thought, they will be ashamed to fly.

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It has been said by some, that they see too much of party spirit in this business. I agree that professions are nothing. They have often deceived, and will deceive again; but I rest upon something better than professions. I rest upon my uniform conduct in this business—I was, from the first, a supporter of an inquiry into the management of the affairs in India: I was in the origin a strong advocate for the necessity of punishing the delinquency that was found there, by the activity of the learned gentleman (Mr. Dundas). Through the whole of that business, I supported that learned gentleman, at a time when I disapproved of his politics as much as I do now: I supported him, even when those who were his friends were against the measures he proposed.

Sir, I can appeal to something better than party spirit; I can show that this has always been the line of my conduct; I can appeal to the part I took upon myself at a much earlier period, in bringing to justice crimes committed in our Asiatic dominions; and there, too, by a man who had great advantages in his favour: for great fame, great glory, great acts for his country, were all in the character of lord Clive; but these I valued as nothing. Under whose banners did I then contend? It was under the banners of that man, who is now at the head of all the law and religion of this country, the present Lord Chancellor of England, who treated the subject with that manly eloquence for which he is so much distinguished; who crushed, I may say, to atoms, all those who attempted to set up the services of lord Clive as a bar to punishment. He would not suffer a word to be heard, he would not allow mention to be made of any thing that was done by him, as any argument to prevent his punishment. I supported him, and if such was my opinion with respect to lord Clive, I do not see any thing in Mr. Hastings's conduct to induce me to change my mode of action. I do not think that in any capital instance he has been of great use to the Company. The Mahratta peace is alleged in his favour. I have my doubts whether this peace had the merit ascribed to it; but if it had, it was a peace only upon a war entered into by himself, on his own wanton provocation; for he does not seem to have been at any time a friend to peaceable measures; he opposed also the forming, and the accomplishment of the treaty of Poonah and Poorunder; he opposed also the peace with Tippoo Saib.

With respect to the particular question, I wish by no means to treat it lightly. I do not approve of making the difference of opinion, in the gentleman at the head of the Board, on this subject, an object of pleasantry. The whole business is, in my opinion, solemn and important to the last degree. Much has been said of side questions, but I persuade myself there is a disposition in gentlemen to meet this question fairly and openly. Much disgrace would be upon this country, if they should countenance the advice that has been given them by some persons, of assenting to this war, as founded on justice. For this war of the Rohillas has appeared to all the world so wholly unjustifiable, that there has not been found among any set of men, any person that could defend it. If it shall be supported by a British House of Commons, it will be the greatest misfortune that can befall this nation. The determination of this night will be attended to by all Europe. The nations around us will form upon it their future measures with regard to their power in India; and may justly presage the total loss of all confidence in the justice of this nation in that part of the world. What must be thought by our government in India? The rule held out to them they must, no doubt, consider as that by which they are in future to direct their conduct.

It was said, that if we guaranteed Sujah Dowlah, we ought to follow him to the extent of what he proposed, and that there was no medium between forfeiting our faith as guarantees, and joining with him in the destruction of the Rohillas. This is, indeed, horrid policy. Instead of acting the part of an equitable umpire and mediator, what is it but to countenance and assist barbarous vengeance and rapacity? to defend what has thrown indelible stains upon the most brilliant monarchs?

If any thing similar to this, of which we are speaking, were to happen in Europe, how great would be the cry against it? If Great Britain were to guarantee a truce between the Emperor and the Dutch, in which they stipulated to pay a certain sum of money to the Emperor; if they afterwards were to refuse to perform this, we ought, according to this reasoning, to join with the Emperor in the complete conquest of Holland. A noble lord (Mulgrave) has, indeed, most sagaciously observed, What, in such a situation, is a

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governor of India to do; is he to consult Puffendorf and Grotius? No. But I will tell him what he is to consult—the laws of nature—not the statutes to be found in those books, nor in any books—but those laws which are to be found in Europe, Africa, and Asia—that are found amongst all mankind—those principles of equity and humanity implanted in our hearts, which have their existence in the feelings of mankind that are capable of judging.

I have compared the conquest of the Dutch to the case of the Rohillas—but it was more than a conquest. The word 'extermination' has been used; but if the meaning of it be, that every man, woman, and child was put to death, Mr. Hastings is not guilty of so enormous a crime. Suffer me to make use of an example, that may come home more to your feelings; and that is with regard to Ireland. The English are not above one-ninth of the inhabitants of that country; but they possess all the power, together with the greatest part of the property and landed estates of it. Were a French army to come and take possession of Ireland, and say to the English, "you are a set of robbers, those lands do not belong to you; you are usurpers, and you came here under the greatest usurper in the world;" (for I believe most of the English families settled in Ireland in the time of Oliver Cromwell)—"get you gone—get over that channel, and leave this country, of which you have so unjustly taken possession"—what difference would there be in an action of this kind, and what has been done to the Rohillas? Only this—the Rohillas had been in possession fifty years; and the English one hundred and fifty. No one, I believe, will think that the time could make any material difference; but if this was done by an enemy, it could only be done under the pretence of restoring the country to its ancient masters. With regard to the Rohillas, that is not the case—in other respects the case would not be dissimilar. If all the English were extirpated from Ireland, the manufacturers, the plowmen, and the labourers, would still be left—but I believe no one would say, that there would not be great hardship in such case, great injustice, great cruelty. Figure to yourselves such a body of people driven from a country in which they were in peaceable possession, rooted up, and sent amongst you with their children, without property, without any thing to support them in existence: yet they would have another advantage; the English would only be sent across a narrow channel to their friends and countrymen; but the wretched Rohillas had no country—the country they had left, had long been possessed by others, and where were these miserable people to seek for a place of shelter—from the persecution of whom? —of Englishmen—natives of a country renowned for its justice and humanity. They will carry their melancholy tale into the numerous tribes and nations among whom they are scattered; and you may depend upon it, the impression which it must make, will, sooner or later, have its effect.

A great deal of argument has been made use of, with regard to the guarantee, it is said, we entered into. I own I think very differently from most people on this particular point. I think it necessary to consider first, if the agreement was a guarantee; I think Mr. Hastings was guilty, if it was no guarantee: if it was one, I think he is most guilty. But it was no guarantee. Sir Robert Barker, who signed the treaty alluded to, had no powers for this purpose. He himself thought it no guarantee. The Board thought it no guarantee. In truth they could not enter into one, not even Mr. Hastings himself, without contradicting in the most express manner the very opinions he was at that time strongly impressing to be the directors of his conduct.

On the subject of offensive war, there has been much dispute; but whatever may be the sentiments of others with regard to it, Mr. Hastings most explicitly declares his opinion to be against it. In the year 1772, Mr. Hastings, in his letter to the court of directors, says—"I can in this beg leave to assure you, that I adopt, with sincerity and satisfaction, your orders against offensive war;" and with regard to the Vizier, he declares "that nothing shall either tempt or compel him to pass the political line which they had laid down for his operations with him." He makes use of a very singular expression for the purpose of shewing his strong determination on this point; it seems to me to be nonsense; but it is intended to shew his measures in a strong light; he says, "In the mean time you will observe, that I have refused to go farther than agreeing to a passive defence of his

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dominions." This letter was written in November, 1772; in the June preceding, the treaty was signed by sir Robert Barker. If he had guaranteed them by this treaty, and come under an obligation to support such a guarantee by an offensive war, it is impossible he could have expressed himself in this manner. In Mr. Hastings's own letter he takes merit to himself for having gone into no offensive treaty; and it is not to be supposed, he could be either so absent, or have so much duplicity, as to speak of a business in a light which he knew to be false, and which might so easily be discovered.

But they double the guilt by supposing a guarantee. If he was guarantee, it could be no reason for his taking up arms; the object was solely the acquisition of a sum of money; and I must beg leave to say, that the object of profit can be no reason for taking up arms at any time or upon any emergency. Here was solely the purpose of acquiring the sum of forty lacks of rupees. No previous requisition was made of them, but the country was immediately invaded. Couple this with the office which they ascribe to him; he was an umpire and a mediator. Every person who is a guarantee to a treaty is a guarantee on both sides. An hon. gentleman said, that he might be such, and not be bound to interfere: this I deny; he has a power of choosing; he is bound to procure the effect of it in its full extent. But what was the conduct of Mr. Hastings? He receives a bribe for the purpose of extorting a sum of money from those he was obliged by treaty to defend; and he adds to the character of a cruel invader, that of a corrupt and profligate judge.

I declare, Sir, that in all the writings I have ever seen, I never heard such doctrine maintained as I have heard on this subject in this House. I do not pretend to be greatly conversant in books of this kind, but in all of them I have ever looked into, I have never seen a conduct such as this attempted to be defended; not even in Machiavel, nor the most corrupt defenders of crooked policy. It is worse than any mode of acting adopted by the meanest States of Italy; and if such doctrines are allowed by the House of Commons to be valid, they are the first public assembly—I do not say that has acted upon them—but they are the first which has ever avowed and adopted them in any part of the civilized world. Unfortunately for mankind, actions are not always derived from pure sources in public bodies; but in general, they take care to hold forth to the world principles of equity and justice.

But if he did guarantee this treaty, it is insisted that he was bound to see the money paid to Sujah Dowlah. Was there no other way of procuring this than the one which Mr. Hastings followed? I will not put it better than in the words of an hon. gentleman (Mr. Hardinge), who, when he pleases, possesses the powers of eloquence as much as any gentleman I know; but in a plain and simple manner he expressed this more strongly than by the most magnificent figures—Mr. Hastings's language to the Rohillas was this, "If you do not pay this sum of money, be ye exterminated." An hon. gentleman complains, that an appeal has been made to his passions. It is true, it is an appeal to the passions; this simple expression is an appeal, the strongest that ever was made to the feelings of mankind—it is one of those subjects which eloquence cannot heighten, and the force of which words can only diminish. If a sum of money was due by any one country to another with which we were in alliance; if that sum was demanded, and refused to be paid, we might join our ally in arms; but we should not rush blindly into war; we should weigh its policy; balance the advantage to be gained; and at any rate, we should follow it no farther than procuring the payment of the sum, and the expense of enforcing it.

The noble lord was pleased to say, that Mr. Hastings was obliged to join in arms with Sujah Dowlah, and having joined him with his troops, he had no more control over them; but this is by no means the line of his proper conduct. If Mr. Hastings thought it right to grant an aid of troops to Sujah Dowlah, it ought to have been only for the purpose of enabling him to recover this sum of money; but he ought not to have suffered him to carry his resentment to the Rohillas any farther; and even to enter into an offensive war for this purpose, would have been contrary to his orders, and what the object would not have been equal to. Had Mr. Hastings said to himself, I will procure this money for Sujah Dowlah, as the guarantee of the treaty; as the director of the English forces, and the president of the Company's servants, I feel myself bound to see that the stipulation is

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fulfilled—" Fiat justitia, ruat cœlum"—I am determined to risk every thing to maintain the claim of Sujah Dowlah; let the policy and displeasure of the Company yield to the necessity of maintaining our faith: his conduct might have left room for an apology. But this is not his language. What does he say? He says, Give it me; I must have this sum. And he thinks fit to represent to him what the orders of the Company were, in order to enhance the merit of joining his forces with him, and to induce him to be more ready to let him have these forty lacks. Besides, the Rohilla country was always esteemed a barrier against the Mahrattas, and they were at that time preparing to go to war against that nation. The security therefore of the Company's territories required, that they should rather be defended than expelled; that they should be rather protected than wantonly attacked and destroyed.

It is in every respect a clear point, that Sujah Dowlah had no claim upon you for your assistance, whether there was a guarantee, or whether there was no such connexion existing. The attestation of any treaty—and sir Robert Barker's signature was no more—can never be considered as a guarantee. As well might the signature of Mr. Oswald and Mr. Franklin, to the treaty of the last peace, be considered as a guarantee that this country and America should perform the conditions they separately agreed upon with France. I think it must be equally convincing to all who attend to the true state of this business, that if there was a guarantee, it only tended to increase the criminality of this conduct. There are the orders of the Company against all offensive alliances; and there is the security of the country depending upon the strict compliance with these orders. No one can doubt, that the orders of the Company are clear, and that the disobedience of these orders is as clear.

With regard to the justice of the war, it is impossible, in my opinion, that any human mind can feel, that it is not highly unjust in every respect, and in the most extensive degree. No principle that could tend to justify it was ever defended until this period—and that, too, in a British House of Commons. Much difference has arisen about the policy of restricting servants in Asia from entering into offensive war. I must own, that I am on that subject entirely of the opinion of the directors. I think that the reputation of equity and moderation is so necessary to the preservation of our possessions in India, that if the rich dominions of the Rohillas had been annexed to our territory, the acquisition could not have made up for the loss of character we have sustained. I think nothing that was possible to be proposed could make up for it. The principle upon which Mr. Hastings acted was horrible; it was the principle upon which the most insignificant mercenary states form their measures of acting. What a principle for a great nation; for the English nation! It was no less than this, in the most express terms—You must pay me, and I will exterminate them. This was the language held by the man who was entrusted with the government of the greatest territory belonging to the British empire, or perhaps to any empire; Give me the forty lacks of rupees, and I will break through the orders I have received from my masters, and you shall make use of their army to exterminate the Rohillas, and take possession of their country.

But behold what follows. In the year 1782 he is accused of partiality to Sujah Dowlah; his reply is ready, he makes the Company participators in the crime, and by pretending their advantage, endeavours to evade the punishment due to such behaviour. " I did not," says he, " mean to serve Sujah Dowlah; I made this engagement to serve you, by bringing to your treasury a sum of money, and drawing him nearer the frontiers of the Mahrattas; so that by his dread of them, he may be more dependant upon you." The whole and every part of this transaction forms a picture of so sad and crooked a policy, that it is infinitely detestable. But this was not only a war merely of contention for victory; it was carried on with circumstances of the most atrocious cruelty. But, that I may not seem to exaggerate, what in itself needs no exaggeration, I shall beg leave to read to you the letters of colonel Champion, complaining of this behaviour.—Mr Fox here read the following Letters:

LETTER from Colonel Champion to Mr. Hastings, dated Bissoullee, March 10, 1774.

" Dear Sir; I have the pleasure to send you a short address for the Board, requesting permission to repair to the Presidency, and I beg you will not fail to present it, as soon as credible accounts shall arrive of

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any officers being on the way to Bengal, to take the command of the army.—Not only do I wish to get down as soon as possible, to put my little affairs in the best order for my return to Europe, but I must be candid enough to unbosom myself to you, and confess, that the nature of the service, and the terms on which I have been employed this campaign, have been inexpressibly disagreeable.—The authority given to the Vizier over our army, has totally absorbed that degree of consequence due to my station. My hands have been tied up from giving protection or asylum to the miserable. I have turned a deaf ear to the lamentable cries of the widow and fatherless, and shut my eyes against a wanton display of violence and oppression, of inhumanity and cruelty.—The Company's interest constrained me in public to stifle the workings of my feelings, but I must give them vent in private.—Though we had no active part in these base proceedings, yet it is well known that the success of our arms gave him the power of committing these enormities; and I much fear that our being even silent spectators of such deeds, will redound to the dishonour of our nation, and impress all Hindostan with the most unfavourable opinion of our government.—As matters are now, I know of no remedy that would so effectually re-establish our character for justice and clemency, as your taking the family of Hafez under the wings of your mercy and protection, and influencing the Nabob to make provision for them, in some degree suitable to their birth.—It would affect your sensibility too much, were I to descend to particulars; let it suffice that the nabob Mahabbit Cawn, the eldest son, and the rest of the family of Hafez, who are under close confinement (the Begums and other women included), have been driven to the necessity of making private applications for a little rice and water.—I wish, my friend, to leave scenes which none but the merciless Sujah can bear, without heart-bleeding pain. Relieve me, therefore, as soon as possible, and oblige, Dear Sir, &c.

"A. CHAMPION."

Extract of a LETTER from Colonel Champion,—dated Camp, 12th of June, 1774.

"In compliance with the Board's desire, I am now to mention a very unpleasing subject, the Vizier's treatment of the family of Hafez Rhamet, &c. The inhumanity and dishonour with which Mihebullah Khan, his brother Fittihulla Khan, late proprietors of this city and this country, have been used, is known all over these parts; a relation of them would swell this letter to an immense size, and withal prove very disagreeable reading; I send you translations of two letters, and a copy of a third, which, affecting as they are, will convey but a faint idea of the treatment these unhappy people have met with.—I could not help compassionating such unparalleled misery; and my requests to the Vizier to shew lenity were frequent, but as fruitless as were the advices which I almost hourly gave him regarding the destruction of the villages, with respect to which I am now constrained to declare, that although he always promised as fairly as I could wish, yet he did not observe one of them, nor cease to overspread the country with flames, till three days after the fate of Hafez Rhamet was decided; but that gentleman, as in all points, excepting such as immediately respect the operations of the field, he is solely entitled to prescribe; the reputation of the British name is in his hands, and the line which has been laid down for me is clear."

Translation of a LETTER from a wife of Hafez Rhamet Khan to Colonel Champion,

"The English gentleman, renowned through Indostan for justice, equity, and compassionating the miserable. Hafez Rhamet Khan for forty years governed this country, and the very beasts of the forest trembled at his bravery. The will of God is resistless; he is slain, and to his children not an atom remains, but they are cast from their habitations, naked, and exposed to the winds and the heat, and the burning sand, and perishing for want even of rice and water: how shall I either write or state my condition? my sighs dry my ink and scorch my paper. It is evident as the sun the English are brave and merciful, and whosoever they subdue, their children they preserve, who forget their sorrows by the kind treatment they receive; nor draw they the sword in an unjust cause. Yesterday I was of an hundred thousand people; to-day I am in want even of a cup of water; and where I commanded, I am prisoner: fortune is fickle, she raises the humble, and lowers the exalted: but I am innocent, and if any one is guilty, it is Hafez: but why should the innocent be punished for the

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errors of their father? I am taken like a beast in a snare, without resting-place by night, or shade by day. From you, Sir, I hope justice and compassion; for I am as a bird confined in a cage; it is better to give up life by the dagger, than famish thus by hunger and thirst; you, I hope, Sir, will reflect on my state, or my misfortunes will be doubled; I have nothing left; pardon this paper.

"R. E. ROBERTS.
"P. Interpreter."

Extract of a LETTER from Colonel Champion, dated June 15th, 1774.

"I am most heartily disposed to believe that the Board could not have suspected their orders would have had such consequences as have fallen out; they could not have foreseen so sudden and so total an expulsion and downfall of a whole race of people; they could not have supposed that a man, exalted and supported by the British arms, would have paid so little deference to the advice and counsel of a British commander: nor was it possible to conceive that a man who himself had tasted the gall of misfortune, should be so totally unmindful of the unbounded, and unparalleled grace shown to him, as to delight in denying a single ray of benevolence to others; such however has been the case; and in this intimation of it, I have discharged that which was incumbent upon me. I too can say that the Nabob, as an agent of oppression, is alone culpable; but whilst all Asia well knows that the English gave him the rod, and whilst they in vain look up to them as those who ought, if not to direct its application, at least prevent an ill use being made of that rod; will they not conclude that the scourges which the agent gives are connived at? Will they not say every English chief is a sujah?"

Extract of a LETTER to the Governor General and Council, dated 30th January, 1775.

"Consider, my friend," says his excellency the Vizier, repeatedly to Mr. Hastings, "that it was my absolute determination to extirpate the Rohillas, and that I requested the assistance of the English for that purpose."

However well it is known, (continued Mr. Fox) that his excellency is equal to the barbarous design for which he thus publicly and daringly avows that he solicited the aid of the English, is it possible we can believe, that the respectable gentleman here traduced, could have been privy to so horrid a purpose? Could he have so entirely overcome the feelings of humanity? Could he have been so lost to every sense of honour, as to prostitute the English troops, and to stain the glory of the British name, by subscribing to a preconcerted massacre! What is not his excellency capable of advancing? But with regard to all this, the noble lord (Mornington) says, he considers Mr. Hastings as not at all blameable, that he did all that was in his power to prevent Sujah Dowlah from behaving with cruelty; but that he could not turn his face against a prince whom he had engaged to assist. Why did he not? The principles of humanity and equity are paramount to all treaties and all ties. He ought to have made use of his power to prevent the violation of the sacred obligations of humanity. Sujah Dowlah and his troops were nothing. It was easily in the power of our people to have put an entire end, and to have prevented the ravage they made among the Rohillas. Whatever are your engagements with any ally, you must never forget the rights of mercy and humanity; and when you find those who are with you unwilling to act their part, you ought to prevent them from making a bad use of the rod you have put into their hands. It is a greater motive for opposing their violence, that you have contributed to put it in their power to abuse victory. But at all times, and on every occasion, you are obliged to do all that is possible for you to do, to prevent cruelty.

I refer not to Puffendorf and Grotius; every man who has the feelings of a man is capable of judging. Does it require any investigation of minute relations in points of justice and equity, to decide, that you ought to put a stop to cruelty and barbarity whenever it is in your power so to do? These cruelties are not, indeed, chargeable on Mr. Hastings personally; but when I state, that he levied an unjust war, the consequences that follow he is guilty of: with all the mischief occasioned by these means he is chargeable. In the prosecution of a war founded on justice, it cannot be said, that we draw upon ourselves the guilt of all the evils that may happen: but it is far otherwise in an unjust war. Having departed from rectitude and justice in the outset, every farther deviation, even without our immediate act, is additional guilt heaped upon our heads.

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But it has been said, that Mr. Hastings is not liable to be charged with it, as he was at a distance, and could not remedy the evil. Neither is this a true representation: Mr. Hastings had intelligence of the cruelties that were practised, and he did not take the means to put a stop to them, which were entirely in his power: he even refused, at the requisition of col. Champion, to give relief to the severities which were suffered by that unhappy people; and the reason he gives is, that Sujah Dowlah, if they were to control him, might make that a pretence of refusing the stipulated sum he had agreed to pay. The whole transaction, from beginning to the end, was carried on for the purpose of acquiring these forty lacks of rupees: for that sum, the character, the dignity, the honour of the English nation was basely and treacherously exposed to sale.

I think I have now gone over the four principal features of this business, in a manner indeed very desultory, owing to the time of the night at which I speak, and which makes me desirous to hasten through the business as soon as possible. The four principal matters to which I wish to draw your attention are—First, the direct disobedience of the orders of his masters, approved by himself, and perfectly well understood by him. Secondly, I have endeavoured to prove to you, that the war was entered into, on our part, without any kind of obligation upon us so to do. Thirdly, I have spoken to the justice of it. And last of all, to the policy of this war. In all these, I think I have demonstrated, that there is not a shadow of ground to stand up in defence of Mr. Hastings. His orders are clear, and his disobedience of those orders equally clear. I think I have made it also obvious to the conviction of every one, that Mr. Hastings was under no obligation to give the assistance to Sujah Dowlah that he did give; that there was no claim upon us in any respect of the matter; and that in this light it was understood, both by Sujah Dowlah, and by Mr. Hastings, and by the council. I have also endeavoured to prove, that the action was most unjust, cruel, and inhuman, in Sujah Dowlah, and still more so in us; because it was in our power to prevent it. By our countenance it was accomplished; and the whole iniquity of the ruin of these people falls upon this nation. I have lastly spoken to the policy of it, and I hope neither its policy nor justice will ever be defended by this House. It was no other than a mercenary bargain for a sum of money, to destroy a people against whom we had no ground for complaint. What an example to future governors, should this action have the sanction or the approbation of this House! I have not enlarged upon the cruelties in the execution of this business; the business itself speaks enough to your passions, and it ought to speak to your passions. Vengeance is due to the injured Rohillas. It is due to the character of this country, stained and violated in so gross a manner. It is due to the honour, the dignity, and the justice of this House. Against all these principles is set up the personal character of Mr. Hastings. I am far from being desirous of detracting from the character of any man. I wish to think well of every man, and am willing to believe Mr. Hastings possesses very good qualities; but when I am told that he is all mildness and humanity, even to womanish tenderness, I must hesitate. If the Begum and the other women, in favour of whom colonel Champion intreated Mr. Hastings in vain, had been told that the man who had it in his power by a word to relieve them from the distress and dishonour which they suffered, and who turned a deaf ear to their miseries, was a man possessed of the tenderest feelings of humanity, would they not hold up their hands, and possess minds full of wonder and surprise? It seems indeed impossible, that a man whose heart was not uncommonly hardened, could have acted the part in this matter which was acted by Mr. Hastings.

In this corner of the world, happily for us, we see few atrocious acts of cruelty, and are strangers to that fierceness of temper and unfeeling disposition which prevails very much in other quarters of the globe. The people we converse with are in general mild and humane; and have an external politeness and softness of manner, which we suppose to be the natural effect of these qualities; and wherever we meet with that external appearance in any man, we are apt to persuade ourselves that he is possessed of these virtues: but in fact they have no natural connexion in themselves; and we often find that those who are of an insinuating, soft, and engaging manner, conceal more cruelty and inveterate hatred in their tempers, and have less of real sensibility for the distresses of others, than men of a very different external appearance: men whose manner appears full of warmth and

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passion, have generally more real tenderness and humanity than others, who are calm, cool, and collected in their behaviour.

But how ought the character of Mr. Hastings to be tried? We cannot judge of it from what any persons in India can tell of him. There is, in my opinion, a much more certain mode of judging—from his despotism in India. Uncontrolled power always corrupts the heart, renders a man hardened to the distresses of others, and destroys the finer feelings of the mind. No man has ever been able to enjoy great power without being made worse by it; but the true mode of judging of any man's character is by his actions, and the effect of his actions. I read Mr. Hastings's character in the ruin of Hindostan, in the desolation of the country of the Rohillas; these mark a character extremely different from the accounts presented to us by partiality, or particular habit. If Mr. Hastings had possessed the feeling which it is alleged he does, would he not have reflected before he committed an army, powerful enough to do any mischief, under the direction of such a prince as Sujah Dowlah, whose cruel and perfidious disposition was sufficiently known to him?

It is said, you are not to consult the character of the princes with whom you are engaged: but you ought to consult them so far as to know the length to which you can put confidence in them. And knowing the character of Sujah Dowlah, Mr. Hastings undoubtedly deserved great blame for suffering him to possess so great an authority over the British troops; and he ought most certainly to have given the strictest orders to prevent his exercising any cruelty over the inhabitants of that devoted country, which he had suffered them to attack. But, on the contrary, we find Mr. Hastings exciting Sujah Dowlah to the full accomplishment of his purposes, and afterwards giving up the devoted Rohillas to the will of this tyrant.

In every light in which I can view this war, it appears to be equally indefensible, equally disgraceful to the character of this nation; I think it leads to every thing that is bad; and if the principle of this transaction should be approved of by this House, the governors of India will have little restraint upon their actions, and certainly will believe it little necessary to observe any other laws than those which rapacity and violence may dictate. An hon. gentleman was pleased to blame my right hon. friend, for charging Mr. Hastings with a transaction which passed so many years previous to this period; but he ought to recollect, that this is not the first time the Rohilla war has been condemned, and that severely too. We have upon the Journals of the House a specific resolution against the Rohilla war, censuring it in as severe terms as can be made use of, framed and passed on the motion of the learned gentleman (Mr. Dundas), who is desirous of treating all that system which he had so strenuously maintained at a former period, as a mere chimæra. For it is not this resolution alone, but that whole plan, that code of laws esteemed so necessary to the government of India, which is wholly overturned by the approbation of this transaction; they must remain so much dead letter; a monument of the zeal of their author, who now has abandoned what he once so eagerly contended for, and has displayed an example of inconsistency scarcely equalled in the political history of this country. If the resolutions which the learned gentleman brought forward had any meaning; if they were to be taken in their obvious sense; in the sense they were by all at the time of their being brought forward understood; they certainly amounted to a full and total reprobation of the measures carried on in India by the governor-general, Mr. Hastings: they pointed out the necessity of a change in the whole of the mode of administering our affairs in that part of the world, and by being adopted by this House, we have become pledged to see them put in execution. This is the first opportunity we have had of shewing our determination to enforce them; and if this is omitted, it will be justly considered as an entire relinquishment of the plan of moderation and equity we thought so necessary at that time to establish.

What colouring the learned gentleman can possibly give to his behaviour, it is impossible to conjecture. After having so solemnly bound himself to carry on this inquiry, to evade it in the manner he has done, is too shameful to admit of apology. Can he assert that he did not mean that Mr. Hastings should be charged with the crimes he has imputed to him? Did he intend to calumniate him in his absence, and when Mr. Hastings had an opportunity of defending himself, to shrink from the accusation, and leaving the stigma which he had thrown upon that gentleman

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to reman, to refuse to give him an opportunity of vindicating his innocence? Where would be the injury to Mr. Hastings, of sending up an impeachment against him? Where is the danger? In that assembly, where all the law, the religion, and the justice of this country is collected, it is impossible any injury can be suffered. A fair and equitable trial of the business must take place, and the culprit have it in his power to vindicate himself from the charges which have been made against him. These resolutions brought up by the learned gentleman, undoubtedly were intended to be a pledge that a charge would be made against all who had disobeyed them, and that it would be carried into effect by this House of Commons. There are only three modes by which any man can be charged by this House: two of them are disapproved of; why should not the remaining one have its fair operation? But it is said, there should be some fixed marks of parliamentary disgrace upon Mr. Hastings, but that it is too much to impeach him. But how is this to be done, without inquiring into the crimes of which he is accused, and passing some opinion with regard to them? Would you condemn him without suffering him to be heard at the proper bar? It is true, an impeachment by the Commons of England is a charge of great solemnity, and much weight; yet it is no condemnation. The House possesses no judicial sentence; it only, in this instance, follows up what it laid down as the rule to which it was to adhere, with regard to our servants in India. But to-night we pass no resolution of impeachment, we decide only upon the crime; the former must be left to an after consideration of the whole, not any particular part of his measures.

Let the whole of the conduct of Mr. Hastings be met fully, and without evasion; let it be examined with firmness, and with a determined purpose of asserting the principles of moderation and equity we have held out to the world, and upon the maintaining of which, the stability of of our footing in India must undoubtedly exist. If our views of administering government in India are changed; if we believe that those resolutions which were framed with an unanimity not always to be expected, and at that time very uncommon in this House, were not founded in good policy, nor in justice, let us declare it to the world. I call upon the learned gentleman to whose labours we are so much indebted, and to whose exertions we owe all that system this House has pledged itself to establish, to come forward, and with manliness and spirit move that they be erased from the Journals of this House. Why do they remain enrolled an evidence of the impotence or of the folly of those who ought to be the guardians of the justice of the nation?

But the right hon. gentleman says, he intended only that Mr. Hastings should be recalled. He determines, in May 1782, that Mr. Hastings should be recalled; Mr. Hastings did not arrive in England until 1785. The right hon. gentleman was no short time in office before the recall was thought of; time for reflection had been gained, and he found that he had been too zealous. But he had proceeded too far to retreat; he therefore at length determined to recall Mr. Hastings, and he did recall him—with thanks, with approbation, and with every mark of favour and protection that a minister could bestow. Is this the effect of the boasted reformation in India? Is this the earnest of the new system of eastern government, which was to produce so much happiness and prosperity in that part of the world? Is this an example of the boasted determination of ministers to punish Asiatic crimes?

An hon. gentleman (Mr. Grenville) has been pleased to speak of the Bill which I brought into this House, with regard to that part of our dominions, with some severity, and has described it as a Bill that will be long remembered in this country. I hope it will not soon be forgotten. It may be thought that on this point I feel sore. I own I do not think it wise, on their part, to mention this matter now; no part of that business can redound much to their honour. The Bill which they have framed, has been renewed and amended, until it scarcely bears the resemblance of the original form: I do not wish to call up this subject, but I know what I owe to myself. I must take this opportunity to declare, that the Bill to which the hon. gentleman alludes, I esteem the most important measure of my life. The principle on which it was built, I am satisfied, is that alone which is capable of maintaining order, and preventing abuse in the government of those distant territories. Long had I revolved in my own mind, the plan of which I am now speaking; and when I came into office, I did not feel easy until I had attempted to

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bring into existence, what I held so essential to the right administration of our government in that part of the world; and until I should accomplish it, I felt I had not done justice to India.

An hon. gentleman (Mr. Jenkinson) has thought proper to arrogate merit to himself, in having rendered abortive the system which I proposed, and has been pleased to boast of his influence in contributing towards its overthrow. It is, indeed, an influence which you have all felt; it is a rod which has severely chastised this country; which has brought it to the brink of ruin; inclosing all things in concealment and disguise, it still continues to spread its baneful effects over the measures of the government of this nation. But long as this has been suspected, persevering and forcible as has been its action, never until this day has its existence been avowed, and made a subject of undissembled boasting. The hon. gentleman, indeed, is right to make himself formidable by something. He possesses knowledge and industry; but if his influence was not more powerful than his argument and his consequence in this House, and in this country, it would speedily find its own destruction, and be reduced, like them, to less than nothing. But how much soever the hon. gentleman may make a triumph of his power in the instance to which I allude, I can assure him I feel myself very little personally *affected by it:* and I do declare, that unless I had been able to accomplish the great point to which I had bent all my thoughts, I would not have remained one day in office. Had I accomplished it, I would not have left India in that forlorn state, in which I think it is now left, abandoned to the management of men incessantly driven from one object to another; appearing determined now, and again deserting their ground; and every thing at last failing them, they have been forced to rest all their hopes upon the virtues of a single man. I will venture to foretell, that this measure will be found as little effectual, for the purposes wanted in India, as the other schemes they have held up to deceive the public.

Perpetual, constant, strict responsibility to this House, is the only way in which it is possible to govern with justice, and with effect, these distant possessions. It is in this way only we shall be able, and it is upon these conditions alone that we have a right to preserve them. It was on these principles that I founded my Bill, and I am still confident they are the only principles that can impart stability and rectitude to that part of the administration of the empire. I know that the measure was by some persons loudly execrated, and condemned; but I take this opportunity of declaring, that whatever others may think of it, my opinion is only more and more confirmed of its propriety and necessity. The principle of that Bill it is my ambition to have considered as the object which, above all others, I think the most necessary for this country to attain. Those who opposed it have passed another, different in form, and founded on very different maxims. What have they done? They have passed one bill one year, another bill another year; and we see them driven about from one principle to another, until they scarcely themselves know upon what they are proceeding.

The whole government of India rests upon responsibility. This is the grand object to which attention should be directed. And let me ask, how this is to be effected? If, in every instance, and at every point of time, you have not the means of enforcing this principle, it is not possible the government of this country can be preserved in its purity in the East. You have no other hold of the people whom you send out to that part of the world, but by placing them in such a situation, that every thing they do is to be canvassed and inquired into, and if criminal, punished with severity. If you lose sight of this for a moment, your power over that country is gone. If a bad act is committed, what can you do? You threaten, and you recall; you appoint committees, and prepare all the apparatus of punishment. This consumes time; and with regard to that part of the world, thirteen months are thirteen years. Before you can bring this man before you, something may happen that will be a set-off, and the whole may at once vanish away. The inquiry will be silenced, and affairs go on in the same wretched train in which they hitherto have been conducted. People are greatly mistaken if they imagine there can be the responsibility in India that there is here, and by similar means. In this country, facts can be got at with ease; the conduct of men is under the public eye; and if they betray the trust reposed in them, it is possible to come at the means of detecting their guilt. But how are you to procure evidence of crimes

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committed in so distant a country? The time necessary for such a purpose would suffer any mischief to be carried on, perhaps to the total ruin of our possessions.

I would have strict, literal, and absolute obedience to orders, in all those whom I entrusted with the administration of government in that country; that we might know the ground upon which we were treading, and be able to form some judgment of the real state of our affairs in that part of our possessions. This House has already passed certain resolutions, and has pledged itself to see them put in execution; an opportunity is now presented, the matter is now in issue; and if it is suffered to fall to the ground without a spirited and a firm examination, all inquiry may sleep for ever, and every idea of punishment be buried in oblivion.

This is, as I have said before, a matter of the utmost importance, and one which admits not of delay. If these principles are founded in truth, justice, and good policy, it is incumbent on you to lose no time to bring them into effect, and, by a striking example, to convince the world that the principles of equity and moderation which you have held out were not intended to deceive; and that you did not begin the work of reformation without being determined to carry it on until it should have its full effect, by restoring happiness, and preventing oppression throughout our dominions in Asia.

I have thought it proper, Sir, to shew that my opinion is not altered, and to declare that I do not see any thing hitherto done which is in any respect likely to place our affairs in that quarter upon a stable and prosperous basis. Deeming, as I do, the affairs of India to be weighty to the last degree, I trust that I need make no apology for endeavouring to impress upon the House the only mode of governing these possessions, that I am confident can ever be attended with success, namely, that of responsibility to this House. With this principle the present inquiry is most intimately connected. If you suffer it to be evaded, an abandonment of all control over your people in India must undoubtedly follow. Mankind will always form their judgments by effects; and observing that this man, who has been the culprit of this nation, and of this House, for a series of years, is absolved, without a regular trial of his crimes, they will easily conclude, that another may find the same mode of coming at protection, and that fear of punishment need not, at any time, interrupt the pursuit of gain.

I would again, Sir, before I sit down, revert to the matter immediately before us. The principles of morals are to be drawn from books, and from the tongues of men, not from their actions. The fact is, indeed, too true, that men have in all ages been little governed in their actions by equity and justice; but seldom has it happened, that they have openly avowed that they have not been directed, in their conduct, by rules so generally established as the foundation of all intercourse among mankind. The war against the Rohillas carries with it so great an abandonment of all the great leading principles of morality, that it is astonishing that any man can attempt to defend it. We should reflect that our character is at stake—and undoubtedly we should preserve that fair and unsullied. It is natural to trust in a fair character; and when that is lost, all confidence is carried with it. We should consider that Mr. Hastings himself does this. He acts upon the character of nations; he states the character of the Rohillas as a reason for their being exterminated. If we were to go on this principle, and exterminate every nation of that description, we should soon leave the face of the earth thinly inhabited; and I am afraid our own country would not be able to stand up with much confidence in defence of its own character, if it should give its assent to such barbarous doctrines. But there was nothing in the character of the Rohillas, to excite the indignation, or draw down the resentment of any nation, much less of Great Britain. They were a brave people; and, what is singular, the only free people in India. They governed the country of which they were possessed with a mildness of which its very flourishing condition, so as to be called the garden of Hindostan, is an undeniable proof; they were endowed with all those national virtues which Britons have been accustomed to admire, and which form a strong chain of connexion between countries which enjoy the blessings of liberty. Ought not such a people to have met with sympathy and regard in the feelings of this nation? Ought not a cause such as theirs to have interested a British bosom? To mark out such a people as the objects of avarice, as the victims of unprovoked resentment, or to abandon them to the rod of tyranny and oppression—what conduct could be

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more derogatory to the character of a nation which enjoys the influence of liberty? What mode of procedure could be more disgraceful to the honour and humanity of the British name?

A right hon. gentleman (Mr. Grenville) has spoken of the religion and tenets of the Rohillas as an argument for their destruction. I think he said, they were of some particular sect of Mussulmen, the sect of Omar, and different from Hindoos, the original inhabitants of the country. Men, Sir, have been persecuted on account of their religion; but that an argument of this kind should be made use of at this time of day, to palliate the crime of exterminating a nation, is a matter I do not understand. Of what consequence is it to the question of the justice of the war, whether their tenets or their practice differ from those around them? I am, indeed, sorry to hear such doctrine as the justice of this war, defended by a young man, who, from his situation in office, gives us reason to dread, that on principles like these, the new government in India is to be established.

The whole of this business is now before you. You are now to decide; and I call upon you to reflect, that the character, the honour, and the prosperity of this nation depend on your decision. I have appealed to what is called the passions, that is, the indignation of mankind, against enormous guilt, against violence and oppression. It has been my opinion, that we ought, in this manner, always to feel with regard to Indian delinquents. The people of Hindostan have a claim upon our protection, upon our pity, and their distresses call loudly for vengeance upon their oppressors. Sixty thousand Rohillas driven like a herd of deer across the Ganges from their houses and from their lands, to perish through want of subsistence, or depend on the precarious bounty of nations with whom they had no connexion; these circumstances excite you to take vengeance on those who have abused your authority, and tyrannized over them. The Begum and other women, and the princes of that wretched nation, who, in vain, pleaded for relief from the hands of your servants, call upon you to vindicate your own character, and to let the guilt fall upon those who have deserved it.

We ought, it is said, to be counsel for the prisoner. If a man is not able to plead his own cause, it is right to allow him every indulgence, and to put it in his power to bring forward a fair state of the circumstances of his case. Truth is the object at which we wish to grasp, and every mode of bringing that before us is to be attended to. My duty is, when I find great crimes, to state them, and that not merely on my own authority, but from the accounts of those who were eye-witnesses. There is no such delicacy as some would lead us to believe. It is our duty to bring a culprit to justice. Mr. Hastings is the culprit of the nation. He has infringed our orders, and we have bound ourselves to call him to account. Whatever may be his services, they cannot be pleaded here: they never can be considered as preventing his offences being inquired into; and if he is guilty, he ought to suffer the punishment due to them.

My right hon. friend has brought forward his accusations openly and boldly. He did not basely slander Mr. Hastings when he was not present, and then meanly hide himself behind some pitiful evasion; but he has come forward with his charges to his face, and given him a fair opportunity of clearing his innocence to the world. Mr. Hastings has declared his wish to meet it. Why, then, will you not suffer it to take its regular course? I say again, where is the danger? Where the injury? Nothing but good can result from it to your government in India. Lord Cornwallis has been just sent out, with powers greater than were ever entrusted with any governor. By what rule is he to frame his conduct? Are those which have been laid down, and are now disapproved of by this House, to regulate it? Or is he to govern himself by the example of Mr. Hastings, of whose management this House must, if they acquit him on this business, be supposed to approve?

My right hon. friend has singled out this transaction, because it has two features, which strongly mark the political conduct of Mr. Hastings;—contempt of the orders of his superiors, and an entire disregard of all principles of justice, moderation, and equity. These pervade all his actions, the whole system of his conduct, and appear to have taken entire possession of his mind. This transaction with Sujah Dowlah, and this war against the Rohillas, will give you an idea of his character, much better than any words can display it. These two characters are alleged to be contained in this charge which is brought against him. It remains for you to decide. And allow me again to

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intreat you to remember, that you are not pronouncing merely on the merits of an individual, but you are laying down a system of conduct for all future governors in India. The point is at issue. Your decision is most serious and important. I pray to Heaven it may be such as will do you honour!

Mr. *Dundas* confessed his readiness to admit, that the animadversions made upon him by the right hon. gentleman, were warranted by the circumstances in which he stood. He had moved the resolution of 1782, and he still retained the sentiments he then expressed concerning the Rohilla war, but he had not at that time entertained any idea of subjecting Mr. Hastings to a criminal proceeding. He had moved for his recall avowedly on grounds of expediency, because he appeared to have lost the confidence of the native princes of India, and because there was thence reason to imagine that Mr. Hastings could not continue to hold the government of India with any advantage to the Company, or any credit to Great Britain. He considered it as singularly unfortunate for him to have his conduct in 1782, mentioned in an invidious manner, when he could not but recollect that the right hon. gentleman who spoke last was the person who, though a member of that House in 1782, had gone to the general court of East India proprietors, had put himself at their head, and had persuaded them to refuse to comply with the resolutions for the recall of Mr. Hastings. Many gentlemen might recollect the extraordinary zeal with which the recall of Mr. Hastings had been opposed in the court of proprietors, and that, not on the grounds of resisting the interference of Parliament, but by arguments drawn from the great ability, justice, and salutary effects of his administration, among those who stood forth on that occasion. Mr. Anstruther, at that time a member of the court of proprietors, was peculiarly strenuous; and, together with Mr. Dallas and others, published his speech for the information of the public. Those speeches were still extant; but the right hon. gentleman, it appeared, had not refreshed his memory by a recent perusal of that which he had himself delivered; if he had, he would there have learned, that Mr. Hastings's disobedience to the vote of that House, had been no crime, and instead of being guilty of the oppression and tyranny he now imputed to him, his government had been mild, just, and upright. At that time, many severe reflections were cast upon his conduct at the general court. Happy he was that the same could not be the case now. The right hon. gentleman would not surely complain of the Rohilla war there, and commend it in another place. Varying, indeed, were the sentiments among the members of the Board of Control, on certain East Indian topics. Respecting the Rohilla war, the opinion of his friends (Mr. Grenville and lord Mulgrave), he was free to acknowledge, differed from the opinion he entertained upon that subject; nor was that the only difference of opinion among them; but their sentiments had been uniformly similar respecting the business before them, as matters to be decided on for the future, and it was merely about past transactions that they did not think alike. He next adverted to what had fallen from Mr. Hardinge respecting his notions of public and private morality, and said, that though he could not but applaud the learned gentleman's sentiments on that subject, he feared they were merely theoretical, and that the experience of ages proved that they were not easily reducible to practice. State policy was the grand rule by which the sovereigns of powerful nations generally governed their public conduct; and upon a reference to almost every war commenced between one rival kingdom and another, it would be found that strict morality was little adverted to, and only from necessity. The war before the last between Great Britain and France, had been begun by our seizing some French ships; an action which, if nicely scrutinized, would, he feared, not be considered as remarkable for its morality. The policy, therefore, of any great measure was the grand consideration to be adverted to, and unless the measure was found to be notoriously and flagrantly unjust, the expediency of it was generally deemed a sufficient justification. —Mr. Dundas observed, that he stood in a very singular predicament with respect to all transactions in India. Having taken a public part in that House some years since, as president of the secret committee, which, upon the spur of a disaster, had been appointed originally to inquire into the affairs of the Carnatic, but which afterwards found it necessary to extend its investigation, and applied to the House for its proper powers, his opinions were known, and some of them recorded on the Journals. His situation, therefore, at the

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Board of Control was somewhat awkward. If ever he should sanction a measure repugnant to the principles he had formerly laid down, the House would be able to judge how far his conduct was justifiable, by any new circumstances that might have arisen, and if they could not be so justified, would have a right to charge him with inconsistency. He was prepared, however, to meet a very rigid inquisitor in the person of the right hon. gentleman, who no doubt would compare and put together every part of his conduct in such a manner as to render it as censurable as possible; but he comforted himself by reflecting, that the time might come when even that right hon. gentleman's acrimony would be meliorated, and those principles that he now so violently reprobated, become objects of his compassion, nay even of his panegyric. For, however irritable the right hon. gentleman was in his political character, it was well known that he was as easily pacified and reconciled.—Mr. Dundas stated, that the Rohilla war was an unjustifiable measure, but it was not more so now than it had been nine years ago. Since the period that it occurred, an act of parliament had been passed re-appointing Mr. Hastings governor-general of Bengal. The statute, therefore, might be considered as a parliamentary pardon; and unless some fresh circumstances of an aggravating nature had recently come to light, he saw no reason for calling Mr. Hastings to account for a transaction which the House had so many years ago, tacitly and by implication, consented to pass over. He dwelt on the essential services Mr. Hastings had rendered his country, in the latter periods of the war, and spoke of him as the saviour of India. He reminded the House, that a great variety of treaties with the native princes of India, had been negociated by Mr. Hastings, and concluded under his auspices. He appealed, therefore, to the good sense of the House, whether his impeachment might not at this time be attended with consequences in India much more alarming, than any advantage which could be expected to result from making him an example of parliamentary vengeance, could compensate. As in 1782, neither he nor any of the members of the secret committee had an idea of subjecting Mr. Hastings to a criminal proceeding, there could be no reason for his adopting new opinions, in compliment to the right hon. gentleman who moved the charge.

Mr. *Burke* contended, that the resolutions of 1782, upon the Journals, amply justified him: if they had not, he felt the situation in which the right hon. and learned gentleman's conduct would have placed him. He repelled the argument that Mr. Hastings's re-appointment in 1780, was a parliamentary pardon, and appealed to the common sense of every man, whether Mr. Hastings had pleaded that sort of pardon in bar of any farther proceeding? Had he not, on the contrary, appeared indignant, and proudly angry at what had passed? Had he not talked in the style of their master, more than as a culprit before them? Had he not vomited forth the proffered pardon in their faces, and boldly and loudly demanded reparation for his injured honour? The new board of control and its members, by rubbing against each other, just as the old Scotch proverb said, "the pigs love by ligging together," would generate affection, and become cordial friends, however adverse their ancient opinions, however hostile their former political sentiments. The right hon. gentleman had pretended to palliate the shameful barbarity of extirpating the Rohillas, by arguing, that only a part of them, and those strangers and intruders, had been removed; but the place where a man's ancestors had settled and fixed their residence, became, to all intents and purposes, his home, and it was as great an act of injustice to remove him from thence, as if it had been his by the most remote and ancient possession. His right hon. friend had instanced this by an example from Ireland, and he would illustrate it by one more. He wished to know whether the learned gentlemen would be satisfied by a law for removing every Scotchman, and the descendants of Scotchmen, back to the other side of the Tweed—or whether he would be inclined to consider it in that insignificant light, in which he seemed to look upon the removal of the unfortunate Rohillas beyond the Ganges. He could hardly have expected to find such an opposition, and from such a quarter, to his motion: but he was determined to persevere to the utmost of his ability; and if the motion were negatived, in justice to himself, and to leave behind him a record, that neither motives of party nor private animosity, had governed his conduct, to move the several facts on which it was founded, as truisms, in separate resolutions, that they might remain on the Journals, for his justification.

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At half past seven in the morning the committee divided, and the numbers were: For the motion, 67; Against it, 119.

Debate in the Commons on the Articles of Charge against Mr. Hastings—Benares Charge.] June 13. The order of the day for going into a Committee on the Charges against Warren Hastings, esq. having been read, the Speaker left the chair, and Mr. St. Andrew St. John took his seat at the table.

Mr. *Fox* then rose, and began a most able and eloquent speech with observing, that as something like censure had been cast on his right hon. friend (Mr. Burke), when the committee were last assembled, for having introduced a considerable deal of preliminary matter, generally allusive to the subject of the several charges, not then under immediate consideration, but, in his mind, extremely pertinent and extremely essential, and as he was convinced, that if censure could be at all deservedly imputed to his right hon. friend, on such an account, it might with much more foundation and propriety be imputed to him, were he to attempt to take up the time of the committee, with again going into the discussion of any topics not immediately connected with the subject to which he meant that day to call their attention; he therefore would make no preliminary observations whatever, but proceed directly to the matter upon which he meant to found the motion, which he should have the honour to offer to the committee, namely, to the third charge; to that relative to the conduct of Mr. Hastings respecting Benares. The committee, he trusted, as well from the preliminary remarks and arguments of his right hon. friend, as from what had passed within those walls, were so far familiar with the subject of all the charges, that he should find it no very difficult task to make them perfectly masters of the facts to which he meant to draw their attention. He would begin with the year 1770, in which Bulwant Sing, the prince, or zemindar of the province of Benares, died, and the presidency of Calcutta interfered, through the medium of captain Harper, to procure a confirmation of the succession to his son, Cheit Sing, and an agreement was entered into between that rajah and the vizier nabob of Oude, of whom he purchased, for valuable considerations, his right and inheritance in his zemindary, or by whatever other name it might be called. When Mr. Hastings came over as president of the supreme council of Calcutta, he found Cheit Sing in possession, and in 1773, in the month of October, he was, by a sunnud granted to him by Sujah Dowlah, obtained by the instance of Mr. Hastings, acknowledged zemindar of the province. In 1774, the governor-general and council appointed by act of parliament, obtained the sovereignty paramount of the government of the province of Benares; and to obviate any misconstruction of the treaty, with regard to the tenure of the rajah of Benares, Mr. Hastings himself proposed at the board, that whatever provision might in the said treaty be made for the interest of the Company, the same should be "without any encroachment on the rights of the rajah, or the engagements actually subsisting with him." On the transfer of the sovereignty, Mr. Hastings proposed a new grant to be conveyed in new instruments to the rajah Cheit Sing, conferring upon him farther privileges; and these were the addition of the sovereign right of the Mint, and of the right of criminal justice of life and death, Mr. Hastings proposing the resolution for that purpose in council, in which were these words, "That the perpetual and independent possession of the zemindary of Benares, and its dependencies, be confirmed and guaranteed to the rajah Cheit Sing and his heirs for ever, subject only to the annual payment of the revenue hitherto paid to the late vizier, &c. That no other demand be made on him, either by the nabob of Oude, or this government." This resolution clearly established the independency of Cheit Sing, and shewed it was the aim of Mr. Hastings to make him independent. Mr. Fox also read farther, in confirmation of this, the following article of the treaty proposed by Mr. Hastings, on the 5th of July 1775: "That while the rajah shall continue faithful to these engagements, and punctual in his payments, and shall pay due obedience to the authority of this government, no more demands shall be made upon him of any kind; nor on any pretence whatsoever, shall any person be allowed to interfere with his authority, or to disturb the peace of his country." Which article was by the other members of the council assented to.

The committee would, therefore, please particularly to carry in their mind, that Cheit Sing had been declared independent, on the express instance of Mr. Hastings,

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that it was actually stipulated, that no more demands should be made upon him, besides his annual tribute; and that the stipulation might be the more clear and intelligible, the words 'of any kind' had been added. And yet, shortly after the deaths of sir John Clavering and Mr. Monson, Mr. Hastings, without any previous general communication with the board, by a minute of consultation, made an extraordinary demand on the rajah of five lacks of rupees. Exorbitant, indeed, was this demand, and incompatible with the stipulated terms of the rajah's being declared independent in 1774! How were the words 'no more demands of any kind,' to be interpreted? And by what principle of construction was the meaning of the stipulation to be made to bear out this? The demand, however, was made, and the rajah murmured at it, and begged that he might be permitted to pay it by instalments, and with his quarterly payments; but Mr. Hastings peremptorily insisted on its being paid by a certain day, when it was accordingly paid, though on the express condition that the exaction should continue but for one year, and should not be drawn into precedent. Notwithstanding this, the same demand was repeated a second year, and after some fruitless murmuring and complaint on the part of the rajah, paid; a third year a like demand was made, and in like manner satisfied. Various and extraordinary were the circumstances of vexation and despotism, under which these several demands were made, such as a threat at one time, to march the English Company's forces into the province of Benares to compel payment, &c.

Mr. Fox stated Mr. Hastings's defence of himself against these facts, and argued upon both the charge and the defence collectively and comparatively. He next spoke of the requisition for all the cavalry which Cheit Sing could spare; and observed, that general Clavering had by a minute recommended it to the rajah to keep up two thousand. From whence he inferred, that Cheit Sing was left at his discretion to keep up as many as he chose, and to send that number only which he could spare. Mr. Hastings, however, afterwards demanded, through his agent, Mr. Markham, two thousand, afterwards fifteen hundred, and, after that, he lowered the requisition to one thousand. But Cheit Sing sent word, that he had but thirteen hundred, and offered only five hundred, declaring that he could spare no more, but at the same time substituted in lieu of the remainder five hundred matchlock men. Upon this, Mr. Hastings said, in his defence, "My patience was exhausted by such repeated acts of contumacy"—an expression the absurdity of which might be unanswerably exemplified, by recapitulating the facts to which it applied. Mr. Hastings, after stipulating that no more demand of any kind than the annual tribute should be made upon the rajah, demanded first five lacks of rupees, which were paid, but with some murmuring; he next demanded five lacks more, which were also paid, though with some murmuring; he again demanded a third five lacks, and these again were paid. He then called for two thousand cavalry. Cheit Sing sent him word he had but thirteen hundred, and those distributed through his territories; that he could spare no more than 500, and those he should have. Would ever mortal have construed such conduct as this into contumacy but Mr. Hastings, who says, "his patience was exhausted by such repeated acts of contumacy;" and adds, that "he determined to convert them into an advantage for the Company's affairs."

Upon this monstrous determination, Mr. Fox reasoned with great warmth and energy, appealing to the committee whether they ever before heard of such an idea as punishing men, not for the great end of all punishment, example, but—in order to convert it into an advantage for his employers. Mr. Fox put this in various strong points of view, and having here impressed the several facts he had stated very forcibly on the minds of the committee, proceeded to mention Mr. Hastings's determination to levy a fine of forty or fifty lacks of rupees upon Cheit Sing for the imputed contumacy, and his journey to Benares for that purpose. He spoke of his conduct on his arrival in terms of severe reprobation, declaring, that his language and conduct to the rajah, was rude and insolent in the extreme. Soon after his arrival he caused Cheit Sing to be put under an arrest in his own palace, an instance of unparalleled indignity; for what would be thought of any tributary prince in Europe being arrested in his palace by the order of the sovereign paramount? Would not his authority be lost for ever? This whole proceeding provoked Mr. Fox's execration: he condemned and denied the right of Mr. Hastings to levy,

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and fine; and contended that there was no ground for such an unwarrantable stretch of power, since the conditions of the stipulation had been all complied with, the rajah having continued faithful in his engagements and punctual in his payments, and having paid due obedience to the authority of the British government. He ridiculed the three rights to fine the subordinate princes that Mr. Hastings had, in his defence, laid claim to. The first of these was, he said, the right derived from Sujah ul Dowlah of fining in case the Mint was abused; the second was that of imposing a fine for investing, upon every new possession of the zemindary. This, Mr. Fox observed, was a miserable cavil, and a gross perversion of the word 'fine,' since nothing was more distinct and different than the meaning of it in the two senses here mentioned. And the third right was, he declared, still more extraordinary. In 1764, Bulwant Sing, father of Cheit Sing departed from his loyalty, and joined Meer Jaffier and the English, against Sujah ul Dowlah, when the latter, as Mr. Hastings stated in his defence, "would probably have fined him," had not the English protected him and prevented it.

Mr. Fox diverted himself for some time with the idea of what Sujah ul Dowlah would probably have done, had not the English prevented him. He pressed also upon the Committee the declaration of Mr. Hastings, that according to the institutes of Jengheez Khawn or Tamerlane, the rights of the subject are nothing, while the power of the sovereign is every thing, and urged the injustice of such a despotic maxim with great energy. He next took notice of the inordinate vanity and presumption of Mr. Hastings in saying, that if Cheit Sing was a great prince, he as his sovereign was a great king. In order to shew the absurdity of this, he put the case thus: suppose that the emperor of Germany were to send an ambassador to the Elector of Hanover or the Elector of Brandenburgh, and he were to tell either of them, "if you are a great Elector, I am a great Emperor." Having pushed the ridicule to some extent, he returned to his narrative of what had happened at Benares, and stated all the facts of the ill treatment of the Rajah, subsequent to his having been put under an arrest, to the massacre of the British, and the escape of Cheit Sing.

Mr. Fox, after having gone through the whole of the facts, proceeded to take notice of the fourth and fifth articles of the charge, which he said he should speak to shortly, considering them rather as matters of aggravation, superadded to the treatment of Cheit Sing, than as charges of much importance themselves. He then stated all the circumstances that took place at the castle of Bidgigur, and of the inducements to plunder, held out by Mr. Hastings to the soldiery, descanting on the mischievous consequences of such a practice; a doctrine for which he declared he had the authority of Mr. Hastings himself, who some years before had written a declaration, that "the very idea of prize-money suggested to his remembrance the former disorders which arose in their army from that source, and had almost proved fatal to it. Of this circumstance you must be sufficiently apprized, and of the necessity for discouraging every expectation of this kind amongst the troops, it is to be avoided like poison, &c." Having thus proved how very contradictorily Mr. Hastings had behaved in that respect, he mentioned the strange sort of affidavits and depositions that were made for the purpose of imputing suspicions of disloyalty and designs to rebel to Cheit Sing. One of these from a person deeply interested in the ruin of the Rajah, he read, to show the House that almost all the allegations it contained were on hearsay evidence only.

Mr. Fox came at last to the fourth and fifth articles, and stated the appointment of Derbege Sing to act as representative of the abdicated Rajah, and his being soon afterwards deprived of his office, and thrown into prison, and the administration of affairs given to Jagher Deo Seo, who levied and collected the revenue with extraordinary severity, to the great oppression of the natives. He also read the celebrated letter to the Council at Calcutta, from Mr. Hastings at Lucknow, which was deemed so disgraceful to the British government; and he appealed to the common sense of the committee, if it was to be wondered at that Jagher Deo Seo should be rigorous in his collection of the revenue, when it was considered what an example Mr. Hastings had held out to him.

After having circumstantially gone through the whole, and applied a great deal of reasoning as he proceeded, in order to elucidate and enforce the criminality of the facts, he at length appealed to the honour and justice of the House, to de-

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cide by their vote of that evening, whether they chose to be considered as the avengers of those oppressed by Mr. Hastings, or his accomplices? There was, he declared, no alternative. They must either appear as the one or as the other. He recollected the language that had been held in 1782, when that code of laws, the Resolutions, were voted, and when it had been well said by an hon. and learned gentleman opposite (Mr. Dundas), that Mr. Hastings scarcely ever left the walls of Calcutta, that his steps were not followed with the deposition of some prince, the desertion of some ally, or the depopulation of some country. How oddly, then, must have sounded in his ears, the arguments in justification of the Rohilla war, that had lately come from the bench on which the learned gentleman sat—arguments that appeared to him to be the voice of the directors and proprietors of old, defending those servants who had disobeyed their orders, and disgraced the British character by their rapine and injustice, but had taken care to make the Company sharers in the spoil, by remitting home the produce of their plunder in investments, so as to insure a good dividend to the proprietors.

There had been, he acknowledged, something like a colour for the vote the committee had come to respecting the Rohilla war; the extreme distance of the time at which it happened, the little information the House had of it till of late, the alleged important services of Mr. Hastings since, (though he maintained that they were neither meritorious nor services), and other causes and justifications; but there were none such to be urged against voting on the present occasion. The facts were all of them undeniable, and they were atrocious, and they were important; so much so, that upon the vote of that night, would, in his mind, the fate of Bengal depend. Happy was it for them that they could plead ignorance of East India affairs for so long a period. It was the best salvo for their honours, and could be advanced with confidence as an argument, that the individual servants of the Company alone had been guilty of all the enormities that had disgraced and disgusted Indostan; but that they had neither participated in the guilt, nor approved of the principle upon which it had been carried on. The facts had now been brought before them, and that in so able, so clear, so comprehensive and intelligible a point of view, that they had no longer their former plea to fly to for an excuse. They must do something; and they might rejoice that the happy hour was arrived when they might make the distinction manifest to all the world, between the enormities committed by individuals, and the sense of a British House of Commons, as to the system under which those enormities have been committed. From their vote that night, France and all Europe would learn what the system of government was that they chose to be carried on in India, and it would be proved whether they determined, upon sufficient proof of his guilt, to reprobate oppression and punish the oppressor. He never would be the advocate of despotism, but he had, he said, often heard it argued, that the happiness of a people was secure, where the despot's mind was virtuous. He never had heard it contended, that the most despotic had a right to use his power for the misery of those under him, and not for their happiness. He thanked his right hon. friend, therefore, for having brought the Charges forward. In one shape or other, they must have been subjected to discussion; and let the House in general decide as they thought proper, what had passed would prove, that there were Englishmen who did not avow those principles which had originated in the corrupt heart of a most corrupt individual; but that they set their faces against them, and execrated the conduct, which had been marked with the most gross oppression, inhumanity and injustice. Nor was it in his mind, Mr. Fox said, enough that the House should content itself with the punishment of an oppressor, it ought also to make atonement to the oppressed. He heartily wished, therefore, that all that had been taken from individuals could be restored; but as that, necessarily, could not be proceeded upon just at present, he should, till an opportunity offered, content himself with singling out an offender for justice.

Mr. Fox emphatically repeated, that they must appear either as the avengers of the oppressed, or the accomplices of their oppressor. He hoped they would not confess themselves the accomplices of Mr. Hastings, but would assume the nobler character. He added an infinite number of warm appeals to the feelings of the committee, and before he sat down, moved, "That this committee, having considered the third Article of Charge of High Crimes

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and Misdemeanors against Warren Hastings, esq. late governor-general of Bengal, and examined evidence thereupon, is of opinion, that there is ground for impeaching the said Warren Hastings, esq. of High Crimes and Misdemeanors, upon the matter of the said Article."

Mr. *Francis* remarked, that Mr. Hastings, in the very beginnning of his defence upon this article, had endeavoured to shift the blame from himself, and to cast it altogether upon him, as the only survivor of his opponents in council. In order to clear himself from this imputation, he begged the attention of the committee for a few minutes; not doubting but that he should be able to exculpate himself to their satisfaction, though it was to be remembered, that the proving him to be criminal, would not acquit Mr. Hastings. Having said this, Mr. Francis proceeded to prove, by reference to a variety of minutes, that he had uniformly opposed the making any such demand upon Cheit Sing as had been made, from a disbelief that the right to make it existed under the particular circumstances of the case. He read several different papers in support of his argument, and quoted the solemn invocation made by Mr. Hastings to the God of truth, in the exordium of his narrative of the affair of Cheit Sing, accompanied with a declaration, that he had conscientiously stated every transaction. After such an appeal, Mr. Francis said, he would not impute to Mr. Hastings a wilful intention to omit any thing. Indeed how could he? as he could not look into his heart; but he could assure the House that Mr. Hastings had omitted to state, that he received a present of two lacks of rupees, (or 20,000*l.*) from Cheit Sing, even while the demands of aids were in agitation, so that when he was claiming money for the Company, he was compounding with the rajah for himself. Mr. Francis concluded by seconding the motion.

Mr. *Nicholls* said, that guided by the coolest impartiality, he had no hesitation to pronounce Mr. Hastings innocent, unless Cheit Sing could be proved to be an independent sovereign prince. He should not attempt to address himself to the passions of people, but he would speak to the common sense and reason of the House. In the first place, he lamented the situation of Mr. Hastings, in being obliged to stand the butt of a British tribunal, inquiring into his conduct as an Asiatic governor; for the sentiments of an Englishman were not likely to put the most favourable construction on actions, which his situation rendered him absolutely incapable of judging upon correctly. Mr. Nicholls went into the question of the connexion between Cheit Sing and the Company, and contended, that if he were a zemindar or tributary to the Company, then they had a right to call upon him for aid in cases of emergency, and to fine, or otherwise punish him in case of refusal. It would be the highest degree of absurdity to suppose, that such a power as this did not exist in a sovereign, whose revenues were almost wholly drawn from the land, which was the case of all the provinces of India, except lately that custom and excise duties had been introduced into Bengal, because that would be laying it down as a principle that the revenues could not be increased on any sudden emergency, the consequence of which must be, that the empire would necessarily sink under the first shock; for, having no resource for a war establishment, she could not procure the means of her own protection. If he were a tributary prince, and subject to the kingdom of Bengal, then any expression of a backwardness to comply with the order of his master, ought to be punished in a very severe and summary way; for anarbitrary government like that of Bengal could not suffer any resistance to its authority without incurring great danger. 'Such a government was always weak, and could only be supported on the reputation of its power, which would be effectually destroyed by suffering any resistance to be made to it with impunity. To illustrate this, he drew a parallel between the European and the Oriental constitutions. In the former, the government was strong, and could indulge its subjects in the liberties of opposing its measures; which the latter could not with safety do. This he instanced in the case of that House admitting to the bar counsel and evidence against a bill depending, which if the sovereign of an arbitrary country should do, he would lose his authority. As for the conduct of Mr. Hastings in Benares, if it had been blamable as the gentlemen over the way had stated it, why did they not prove it to be so by the evidence of Mr. Markham, whom they might have examined when at the bar, and who was resident at Benares during the whole of the time? Their having omitted to examine evidence which would have been able to

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have proved their case, if it had been true, was, in point of law, sufficient ground for an assumption that it was false. Were the House prepared to say that the zemindars were not bound to answer the extraordinary demands of the public defence? Was the noble lord in the blue ribbon prepared to say so? Why, then, did he not, when he first had an account of Mr. Hastings having made the demand, immediately put a stop to it? It would be more fair to impeach the noble lord, than to impeach Mr. Hastings, though he wished not to impeach either, being convinced that both had done their duty, and acted very properly.

Mr. *Pitt* said, that he had given the strictest attention in his power to every thing that had fallen in the course of the debate, not only because he looked upon the subject as one of the utmost importance, from its involving in a great degree, both the honour and dignity of the British House of Commons, and also the general cause of justice and humanity, but because he had heard from all parts of the House, many arguments and doctrines to which he found himself indispensably bound to express his dissent. He could not but lament, that his duty peremptorily prevented him from doing what his inclination otherwise led him to, which was to absent himself entirely from the whole of the proceedings on the present occasion; for he felt the greatest difficulty and uneasiness in being obliged to determine on judicial questions, the merits of which were so closely connected with Indian principles and habits; and that under the insurmountable impression of sentiments and feelings imbibed and matured under the British constitution. In proportion, however, to this difficulty had been his endeavours to make himself perfect master of the whole of the case, and although, from his other avocations, he was, perhaps, less at liberty to dedicate a considerable portion of his time to the study of it, than most other gentlemen in that House, yet he could venture to say, that he had, by a most laborious investigation, been able to form such a final and settled opinion concerning it, as had completely satisfied him of the vote which, in his conscience, he was bound to give.

He should state to the committee, in as plain and concise a manner as he possibly could, the whole of the premises that operated on his mind in forming his conclusion, and this he should do without any restraint from the apprehension that his arguments might be used or perverted to a different result than what he intended; for he thought if there was any one subject on which a member of that House was bound to use less disguise, and to speak out more plainly than on another, it was on such a subject as that then under discussion—where there ought to be no object in view but the honour of Parliament, and the ends of substantial justice. He should, therefore, take care to avoid entering into the business with that sort of temper and spirit which some gentlemen seemed to be influenced by, and should particularly guard against any impression similar to that which the right hon. gentleman had been so desirous of making on the House, in a manner which he thought, of all others, the most unfair and most inconsistent with every principle of law and justice—by torturing the words and arguments of a man standing on his defence, and drawing from them inferences of motives and of principles calculated to fix upon him a degree of guilt which even the charges themselves did not impute. He should not suffer such means to bias him in voting a censure where he did not think censure was merited; nor should he suffer his indignation at such unjustifiable conduct, so far to get the better of him, as to make him refuse such a vote, where he thought he was in conscience bound to give it.

He said he should first begin by stating to the House his general opinion as to the situation of the zemindars of India, and the degree of subjection under which they lay with respect to their superior lords. He had made every research in his power into this part of the subject, and as far as it was possible to ascertain here in England a question of Indian politics, liable even there to great uncertainty and variety of interpretation, he hoped he had been successful. Mr. Pitt now went into the general doctrine of subordinate principalities, pointing out the nature and extent of their subjection to the superior state, and the necessary dependence they must in all cases be liable to. It had been a subject of many different opinions what was the true tenure under which the zemindars of the empire of Hindostan held their possessions. Some had supposed them the real proprietors of the soil, while others looked upon them as mere trustees for the superior lord, and entitled to no part of the produce or value of the lands, except such as

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were allotted to them for their subsistence. Some had conceived them to be possessed of only a life estate, and to be the mere channels or vehicles of the revenue; whilst others contended that their interest was hereditary. It was, however, of very little consequence to the conclusion which he meant to draw, what was the express nature of their tenure: it was enough for him that it must, in the nature of things, and from a number of special circumstances, become liable to demands for certain extraordinary aids in case of extraordinary emergencies. It was impossible to suppose the existence of any state which had no provision made for extraordinary resources in cases of extraordinary dangers—the most common, because the most obvious mode of procuring this extraordinary resource, had, in the earliest periods of the feudal institutions, been by calling on the several vassals of the state for their personal service in arms. This right was a fundamental maxim in every government, and one to which no individual could possibly object, because it was by the joint power of the whole aggregate body alone, that the person and property of the individual could be protected; and it would be a treason against itself, in any state, to exclude a principle so obviously necessary to its very existence. Those personal services of the tenants of lands became, in time, almost universally commutable for money, which was found better to answer the exigencies of government, and the convenience of individuals; from hence the principle which had formerly applied to the persons, extended to the property of the people, and each was considered as bound to contribute in proportion to the benefits which he derived from his political capacity, as a member of a regular community, that is, in the proportion to the possessions which he held under it. He instanced this from the policy of the original feudal institutions of Europe, and particularly of England, in the case of sudden danger, when, over and above the stated rents and services reserved to the Crown, there was a right to call upon the tenants for particular and extraordinary service, either of a personal or pecuniary nature—and from such demands even the counties palatine were not exempted, although the proprietors had the exercise of every species of internal jurisdiction within them, in as ample a manner as any of the Indian zemindars.

He then applied his argument more particularly to the empire of Hindostan, where, he said, the same policy had been adopted and practised; and to prove that it was so, he gave several examples from the recent history of that country, and particularly that of Cossim Ally Khan, who, as was stated in one of the charges, had received in presents from his several vassals above one million and a half of money for the purpose of supporting the expense of his military operations; and these presents, he said, were, as nearly as possible, similar to the benevolences formerly known in the politics of this country, which benevolences were literally the commutations of the military vassals for their personal services. Even this very Cheit Sing had been made to contribute to his former lord, Sujah Dowlah, a considerable assistance both in men and money towards the Rohilla expedition. If he were to recur to the written laws of the Indian legislators, he should find himself at a loss from want of sufficient acquaintance on the subject; but as far as he was informed, he could quote the laws of one of the most celebrated of the monarchs of Hindostan, the emperor Ackbar, who in his grants to his zemindars, although he gave them great indulgences, and expressly exempted them from the payment of any subsidies beyond their stated rents, yet his arrangement was evidently calculated with a view to securing a military force by the personal service of those very zemindars and their subjects, in case of any national and public necessity. Mr. Pitt avowed it to be his firm conviction, that the zemindars of India are bound on all occasions of great emergency to contribute in a proportion suitable to their own ability and the exigency of the public. The next question, then, to be considered was, whether any particular stipulations had been made in favour of Cheit Sing, which ought to exempt him from the general duty incumbent on all other tributaries to the Indian sovereigns. The method which he should take in pursuing this inquiry would be, by recurring to the original acquisition of the zemindary by Bulwant Sing, the father of Cheit Sing, which was by the appointment of Sujah Dowlah, nabob of Oude, and vizier of the empire. Under this appointment there had been an annual rent reserved to the nabob, but, besides this annual rent, extraordinary aids had been furnished to him as lord paramount, on extraordinary occasions. On the death of Bulwant Sing, his son Cheit

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Sing was, by the mediation of the Company, admitted to the succession, with an addition, however, of two lacks of rupees to his annual tribute, and a fine of several lacks paid at the time. Afterwards the sovereignty of Benares was surrendered to the Company, who, by such surrender, became possessed of every right which the nabob hitherto enjoyed in the country, and every degree of authority which he possessed over the zemindars. Among those rights and authorities was that of calling in cases of emergency for assistance over and above the amount of his stipulated and regular annual payments, which assistance was either to be in money or military force. This right had already been exercised and acquiesced in, and was indisputably transferred among the rest to the Company. It was contended by the right hon. gentleman, that, in the several patents or grants by which the zemindary was conveyed to Cheit Sing by the Company, and by which he was invested with the several royalties of a mint, and the right of criminal jurisdiction, there was a complete renunciation of every claim upon him in future, for any thing whatsoever except his stipulated and specified rent. In order to make this appear, the right hon. gentleman had quoted the words of several of the proposals made by the members of the council of Bengal, concerning the investiture and establishment of Cheit Sing in the office of zemindar. The right hon. gentleman had there found, in more than one place, the word 'independent;' of which he had made a great use, for the purpose of proving that the rajah, Cheit Sing, was, in fact, completely and totally independent. But this word which he had so used, neither could, nor in justice ought to be applied to the situation into which Cheit Sing had been put by the Company. The word 'independent' had been used by the governor and council in several different meanings, and the meaning in which it had been used by Mr. Hastings, was one which was never carried into effect. Mr. Hastings had given three different opinions on so many different occasions in matters relating to the province of Benares. He had, on the death of Sujah Dowlah, proposed to the council to renew the alliance which subsisted between that monarch and the Company with Asoph ul Dowlah, his successor, or rather had given it as his opinion that the ancient treaty still subsisted in force as to the son, in like manner as it had before subsisted with respect to the father. In this he was overruled, and the opinion of an hon. gentleman (Mr. Francis) prevailed against him. His opinion was, that the obligation of the treaty with Sujah Dowlah had determined by his death, and that the Company ought not to renew their alliance with the court of Oude, except for a consideration to be made by the new nabob. This consideration being determined by the council to be the sovereignty of Benares, and being agreed upon by the nabob, Mr. Hastings proposed that it would be advisable to resign to the zemindar himself the entire and complete sovereignty, and so render him wholly and absolutely independent: that is, to change his situation from that of a zemindar, or tributary, and give him a perfect, unqualified, and uncontrolled authority. In this the opposition of the hon. gentleman (Mr. Francis) was also successful, and it was determined, on his suggestion, that the rajah Cheit Sing should still be kept in a state of vassalage, or, as he expressed it, of dependence, under the Company. What then was the purport of the instrument by which the zemindary was confirmed by the Company to Cheit Sing?—it was, "that he should hold it as an hereditary possession, paying only a certain stipulated annual sum out of the revenues for the use of the Company;" that is, that the annual and stated payments should never be raised, as had been done by the nabob on his accession after the death of his father, and that no fine should be exacted from his successor, as was the case on his coming into possession. There was, in the whole of the insruments, no renunciation in express terms of that which was too essential and indispensable a right of sovereignty to be either construed away by implication or defeated by any thing short of the most explicit renunciation, the right of demanding aid in war, or any such great emergency; but, on the contrary, this very right was, in a great measure, recognized by the terms of the grant; for it expressly grants the country to the zemindar, on the condition that if he yields a fit obedience to the authority of the Company as his superiors and sovereigns, then he shall hold the territory for the annual sum mentioned in the deed. What was the construction to be put on the words, 'obedience to the authority of his sovereign?' The right hon. gentleman had, with an ingenuity which did him less honour in a judicial proceeding than it would do on

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any other occasion, endeavoured to confound the understandings of gentlemen by a play and cavil of words. He had represented the expression of Mr. Hastings as contradictory and absurd, inasmuch as it was a declaration, "that, provided the zemindar should pay to the council such sums of money as should be demanded from him over and above his stated annual tribute, that then they would demand no money from him whatever." The absurdity of such a proposition was self-evident; but not more absurd than a construction which might just as easily be put on the terms of the deed or patent of confirmation to Cheit Sing, which might as easily be rendered thus: "As long as you continue to yield due obedience to our authority, we promise to exercise no authority over you whatsoever." That the hon. gentleman (Mr. Francis) was not averse to the ideas and practice of exacting from the zemindars and aumils extraordinary aids on extraordinary emergencies, notwithstanding express stipulations for certain regular and definite annual payments, was obvious from his own proposal as recorded on the Journals of the Council, in which he recommends to put all the dependencies of Bengal on a footing similar to that of Benares, apportioning a regular, constant, annual tribute to each, with an observation, "that extraordinary demands may be supplied by temporary expedients; but that if such extraordinary supplies were to be added to the established jumma, or annual tribute, then they would become a part of the established revenue, and so be exacted in times of peace and safety, as well as those of war and danger." These words were sufficient to explain to the House what was the real situation of Cheit Sing; and this, as he had no hesitation to declare, was, that he stood insured from any increase of his jumma, or annual tribute, yet became liable, according to his ability, to demands for the service of the Company on any pressing emergency.

The next object which he should consider was, whether the situation of the affairs of the Company in India constituted an emergency sufficient to justify the exercise of that right of sovereignty which Mr. Hastings exercised in making the extraordinary demand on the Rajah? To this he should say but few words, because the most determined adversaries of Mr. Hastings seemed industriously to impress the public with an idea of the magnitude of the danger with which the Eastern government was threatened. They all represented that, superadded to the war which broke out with France, there were sufficient grounds for the most alarming apprehensions from the animosities and resentments of the adjacent country powers. On this subject, there was one observation that he could not but make, which he did not know how the hon. gentleman opposite could answer in such a manner as to vindicate either his feelings or his diligence on the present occasion. The second part of the charge was entitled, "Designs of Mr. Hastings to ruin the Rajah of Benares," and it was stated in the charge, that as soon as Mr. Hastings found himself in a majority at the council, by the death of general Clavering and col. Monson, he suddenly made use of his power to enforce the demand of an extraordinary subsidy from Cheit Sing, in order to furnish himself with the means of wreaking his vengeance on that prince. He desired the House to pause for a moment, and to consider the full force of the insinuation contained in these words. Could there be a more malignant charge brought against a man than that which he had just stated? Was it not of such a nature, that all hearing it must necessarily conclude, that it was the intention of the accuser to impress the minds of men with an opinion, that this act of Mr. Hastings was the effect of a wanton and deliberate malice, long bent on an act of cruelty and injustice, to which he gave vent on the very first opportunity? He should not lay any stress on the circumstance of Mr. Hastings having been in possession of a majority in the council from the death of col. Monson, which happened long before: all which would be necessary for him to remind the committee of, as a complete antidote to every unfavourable impression which the unwarrantable acrimony of the charge might have given rise to, was, that two days before the resolution for exacting the five lacks of rupees from Cheit Sing had been proposed in the council, Mr. Hastings had received an account of the breaking out of the French war. To have passed over such a circumstance as this, one so striking and so obvious, and to discover a motive so base and diabolical as that which he had imputed to Mr. Hastings, could only be accounted for on principles extremely injurious to the candour and integrity of the hon. gentleman, or else by supposing that the laborious and pertinacious atten-

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tion which distinguished his conduct in every other part of this proceeding, was, in the present instance, more unfortunately for himself than for Mr. Hastings, somewhat off its guard. A fourth consideration was, admitting the right of calling for extraordinary aids to meet extraordinary emergencies, and that in which the Company stood, to have been such an emergency, each of which he was, for his own part, fully persuaded of—whether in that case the sum demanded from Cheit Sing was greater than he could with ease and convenience have paid? He should not take upon himself to say, whether the governor and council had formed their calculation of the ability of the Rajah on proper information; but from the event it was evident, that the sum demanded from him was greatly within his power to have paid; for in the castle of Bidgigur was found, besides what possibly had been conveyed away privately, at least 23 lacks of rupees in specie, and jewels and other moveables to the value of a crore and a half of rupees, which was a million and a half of money. That the demand of 1,000 or even 1,500 cavalry was not enormous, nor beyond the power of the Rajah to comply with, was evident from the circumstances which took place afterwards on the insurrection in Benares, from whence it plainly appeared, that Cheit Sing had a force fully sufficient to enable him to spare the numbers on behalf of his sovereign and benefactors. If it were to be objected, that the only way in which a demand of extraordinary supplies could in justice be made on the Rajah, was in the shape of an aid in men instead of money,—for that the former in every point of view was just and proper, no man could pretend to deny,—it then was a sufficient answer to the objection, that the first proposal of council related only to a military aid, namely, three battalions of Sepoys; and that it was on the suggestion of Cheit Sing's vakeel, that the demand for money had been substituted in the place of men.

Thus, he trusted, he had fairly made it out on grounds perfectly just and reasonable, that there was a right in the council of Bengal to make a demand on Cheit Sing for assistance and aid towards the defence of the Company's interests in Bengal, threatened as they were with a most dangerous combination of enemies, and also that the aid demanded was by no means extravagant when compared with the well-known ability of Cheit Sing to pay it. He should therefore leave those points as proved and admitted, and come to the other circumstances which constituted the remainder, and, in his opinion, the best founded parts of the charge. In the first place he perceived himself under a very disagreeable necessity of adapting in some degree his sentiments on the subject of government to the principles of Indian politics. The principles were certainly not conformable to European ideas; but they were in a great measure the only ones on which an European could take upon himself to judge of the transactions and conduct of an Indian governor. They were the principles of arbitrary power and despotism. But though the constitution of our Eastern possessions were arbitrary and despotic, still it was the duty of every administration in that country to conduct itself by the rules of justice and of liberty, as far as it was possible to reconcile them to the established government. He did not care whether the laws of Tamerlane, or of any other Indian emperor, had laid down such a doctrine. It was enforced by a higher authority, by the dictates of nature and of common sense. And it was upon this ground that he felt it impossible to acquit Mr. Hastings of the whole of the charge brought against him; for he felt in his conscience that he had pushed the exercise of that arbitrary discretion, which, from the nature of the Eastern government, was intrusted to him, to a greater length than he was warranted to do by the necessity of the service: he was firmly persuaded, that Mr. Hastings had been influenced through the whole of his government by the warmest zeal for the interest of his employers; but that zeal, however commendable in itself, lost its merit when exerted in a manner repugnant to principles, which ought not to give way to any motives of interest or policy whatsoever. The council of Bengal having made a demand which they had a right to make, and that demand having been contumaciously resisted, they were certainly justifiable in inflicting a punishment on the delinquent party; for, to give the right of demanding without the power of punishing the refusal, would be absurd and nugatory in the extreme. But then it was their duty to apportion the punishment to the degree of guilt. This, he was sorry to say, Mr. Hastings, in his opinion, had not done; but the hon. gentleman who had taken so active a part in the whole of those proceedings was not him-

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self entirely free from blame, for he had given his countenance to a considerable part of Mr. Hastings's improper conduct—he had admitted the principle that, whether the demand had been just or not, it ought, having been once made, to be rigorously enforced as far as his authority would go; he had, by an acquiescence, encouraged Mr. Hastings to the rash steps which he took in consequence of Cheit Sing's obstinacy; for he had subjoined to the resolution which Mr. Hastings had entered on the books of consultation, to march into the country of Benares, his signature to the following words: "I acquiesce, although I hope there will be no necessity to put the threat into execution." And from his conduct then, and that which he pursued on the present occasion, it afforded some suspicion, that even at the time when he might have exerted himself to prevent many improper steps from having been taken, he sat by, with a secret satisfaction, contemplating the errors of Mr. Hastings, as laying the foundation of future persecutions against him. The grounds of his opinion, that the conduct of Mr. Hastings, subsequent to the demand of the troops and money from Cheit Sing, was censurable, were, that the fine which he determined to levy was beyond all proportion exorbitant, unjust, and tyrannical; he should therefore, certainly, on the present charge, agree to the motion that had been made, not considering himself as being thereby committed to a final vote of impeachment, but only meaning to be understood, that if, upon the whole of the charges, it should be his opinion, that an impeachment ought to be preferred against him, that then this act of oppression was such as ought to be made one of the articles of that impeachment, being in his judgment a very high crime and misdemeanor. In fining the Rajah 500,000*l.* for a mere delay to pay 50,000*l.* (which 50,000*l.* he had actually paid) Mr. Hastings had proceeded in an arbitrary, tyrannical manner, and was not guided by any principle of reason and justice. This proceeding destroyed all relation and connexion between the degrees of guilt and punishment; it was grinding; it was overbearing; and admitting the supposed guilt of the Rajah in delaying to pay an additional tribute demanded of him, the punishment was utterly disproportionate, and shamefully exorbitant. In all this he meant to confine himself expressly to the exorbitancy of the fine, and not to the subsequent revolution of Benares, which was an event that, under all the circumstances, could not possibly have been avoided: for Cheit Sing having reluctantly obeyed in one instance (the payment of the money) the orders of the council, after making false and contumacious excuses—for certainly his pretence of inability was of that description—and having actually disobeyed the other part of their commands, the furnishing of a certain number of troops, the governor was unquestionably at liberty to impose a fine upon him, and to march into his country in order to enforce it; and the Rajah not being acquainted, from any overt-act, that the fine intended to be levied was exorbitant (the only unjust instance of the transaction), his taking up arms in order to escape from an arrest to which he had subjected himself by his own fault, and exciting an insurrection among his men to massacre the British forces, and afterwards withdrawing himself and going into open rebellion, were actions which could not be excused by any consideration of that with which he was not acquainted—the exorbitancy of the fine. All these circumstances considered, his deposition of the Rajah was indispensably just and necessary, and did naturally follow from what had preceded it. As to his encouraging the troops to commit ravage and devastation, that could not have been the consequence of the letter to which it was imputed; for that letter was only calculated for the private perusal of the council, and it was a well-known fact, and sufficiently substantiated by evidence, that he had taken every precaution by issuing the necessary orders to prevent any avoidable licentiousness of the soldiery, and that the cruelties committed were only by a party of disobedient and mutinous followers of the camp. As to the subsequent parts of the charge, the second and third revolutions of Benares, as well as those upon which he had last touched, he should say but a few words, as they had not been much relied upon, except as matter of aggravation, but not as direct charge. On the head of the last-mentioned article, the right hon. gentleman had attempted to point out a contrast between the different parts of Mr. Hastings's conduct in having first deposed Cheit Sing for not paying a certain sum of money, and afterwards deposing Jagher Deo Sheo for using rigorous modes of collection in order to enable himself to comply with similar demands.

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In both cases he was strictly right in his principles, for one rajah deserved to be punished for not paying what he was able to pay, and what he ought in duty to pay: the other was equally culpable in not making a proper collection of the revenue; but laying it on in a partial and unfair manner. The sole remaining subject on which he had any thing to say at present, was the restoration of Cheit Sing to his possessions. Whatever ought to be done in that case, could not now fall properly under consideration: in the one case by determining to restore him, it would create an unfair prejudice against a man accused; and in the other, by determining to withhold his possessions, it might possibly have a tendency the contrary way, and carry with it an approbation of an act, which was hereafter to become a subject of criminal inquiry—he should therefore, for the present, beg leave to withhold the communication of his opinion.

Mr. *Dempster* observed, that there was but one point in which he differed from the right hon. gentleman, and that was in his conclusion, that there was matter of impeachment in the charge. He reasoned on the customs of the East compared with the customs of Europe; and said, that great allowance ought to be made for the extreme difference between the two. He urged many arguments in support of the meritorious services of Mr. Hastings, terming him the saviour of our possessions in *Hindoston*, and declaring, that France, during the course of the last war, considered him to be of so much importance, that they rested all their hopes of success in India on the chance of his being recalled. In short, if the late governor-general deserved impeachment at all, it certainly was for that foolish disinterestedness which would not suffer him to bring home a larger fortune.

Lord *Mulgrave* could not agree with Mr. Pitt, that Mr. Hastings's having arrested Cheit Sing was a matter deserving of impeachment. It was the duty of a zemindar to comply with the requisition of the sovereign power for a contribution towards the exigencies of the state; and Cheit Sing appeared to be a very shuffling, evasive, bad man, whose conduct called for punishment.

Major *Scott* said, that after the ample justification which Mr. Pitt had entered into of every part of Mr. Hastings's conduct, except as to the quantum of the fine, it would be presumption to waste the time of the committee. The right hon. gentleman had proved, that Mr. Hastings had an undoubted right to require military aid from Cheit Sing, and that Cheit Sing was criminal in having declined to give it; but the right hon. gentleman had concluded by saying, that he was not so far criminal as to justify Mr. Hastings in imposing so large a fine as 40 or 50 lacks upon him, and therefore Mr. Hastings was culpable. Upon this subject he would offer a few words. Mr. Hastings left Calcutta in July 1781, at a time when the very existence of the British empire in India depended upon his exertions in Bengal. Sir Eyre Coote was then upon the coast of Coromandel, opposed to Hyder Ally: about 50 lacks of rupees had been sent to Madras between Oct. 1780 and July 1781; and every grain of rice for our army, and every rupee for its disbursements, sir Eyre had informed Mr. Hastings, must come from Bengal. Added to this, we had the Mahratta war to support; a French fleet had appeared off Madras in Feb. 1781, and returned much reinforced under Suffrein the next season. The conduct of Cheit Sing, by the right hon. gentleman's own account, was criminal, and Mr. Hastings had received intelligence of his disaffection, which formerly he had treated too slightly. But what was the crime of Mr. Hastings in the eye of the right hon. gentleman? It was merely this, stating it in the strongest terms, that when our very existence as a nation in India depended upon his exertions, he, in 1781, formed a resolution in his own mind, subject to alteration however, that to relieve the distresses of the Company, and to preserve India to Great Britain, he would exact a large fine from a man, whom the right hon. gentleman allowed to be criminal, though Mr. Hastings's proposed punishment exceeded what he conceived to be the rajah's offence; and in this excess of zeal in his country's service, without a suspicion of his being actuated by a corrupt or malicious motive, the right hon. gentleman thought there was impeachable matter in the charge, and for this only, for he had most completely exculpated him from every other part of it. The major said, he could not suppress his astonishment, that that part of Mr. Hastings's conduct, which had most strongly evinced his zeal for the preservation of the empire committed to his charge, should have been selected as deserving of censure.

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Mr. *Vansittart* observed, that proper allowances ought to be made for the customs of the East Indies, where it was no uncommon thing for a zemindar to be arrested.

Mr. *Grenville* defended the conduct of Mr. Hastings, declaring, that, as an honest man, he could not vote for the resolution.

The *Attorney General* could not agree to go the length of an impeachment; and unless the present resolution was followed by an impeachment, he saw no use in voting it. If part of the speech of a right hon. gentleman (Mr. Fox) were true to the extent which he had carried it, Mr. Hastings, instead of deserving impeachment, would deserve a halter; but as he did not believe the argument in its extent, although he was free to own Mr. Hastings had gone a great way with his power, he could not consent to vote the present resolution, not being at all prepared to impeach.

Mr. *Powys* expressed his satisfaction at having heard so honourable and manly an argument from the Chancellor of the Exchequer. A more fair and satisfactory one had scarcely ever been delivered within those walls. He could not, however, but lament, that the right hon. gentleman should be deserted by his friends, and that two of the ministers for India should have argued against the resolution. Mr. Powys said, the two ministers for India had virtually avowed that a political expediency sanctified injustice; a maxim to which he could not accede.

Lord *Mulgrave* declared, that the right hon. gentleman would not be fit to be minister of the country for a single day, if, upon a question of that nature, where the House were sitting as judges, he was to expect his friends were to sacrifice their opinions.

Mr. *Pitt* lamented that there should be any difference of opinion between him and his friends; but it was an honourable difference, not a difference about a principle, but about the application of a principle.

The committee divided: Yeas, 119; Noes, 79. The resolution was therefore carried.

Debate in the Commons on the Wine Excise Bill.] June 7. On the order of the day for taking into further consideration the report of the Wine Excise Bill,

Mr. *Beaufoy* said:—Sir, I rise to propose a clause of much importance, as I conceive, to the interests of the kingdom. The business before us involves in it two perfectly distinct questions. The one is, how far is the idea of applying the excise laws to the collection of a revenue from wine, effectually reducible to practice? The other is, admitting the practicability, how far is the extension of the excise laws consistent with the regard we owe to the civil rights of the subject? The applicability of the excise system to the wine trade will be easily determined by a plain and obvious fact, which is, that the whole system of excise regulation is founded on this one principle—the officer shall take an account of the trader's stock. From this principle it follows, that to all trades in which the process is such as to admit of an account of stock, and to those trades alone, the excise law may be effectually applied. Thus, for example, in the business of a brewer the excise system operates with entire force; for the nature of his trade is such that no addition or diminution in his stock can easily be made without the knowledge of the officer. On the other hand, when the tax upon plate in the possession of private persons, was subjected, many years since, to the collection of the excise officers, the tax entirely failed; for as the exciseman had no right of surveying a private house, he had no possible means of knowing the stock of plate which any individual possessed. Judging, then, by this principle, that the applicability of the excise laws depends upon an account of stock, what shall we say to the proposal of subjecting to those laws the collection of the revenue from wine? Can the regulations of the present Bill, or can any regulations, enable the officers to keep a regular account of every increase or diminution of the trader's stock? My answer is, to keep such an account is difficult, but not impossible. The present Bill is far from being perfect; but though the provisions it contains will not enable the officer to keep so exact an account of stock as will exclude the possibility of fraud, yet it will narrow the extent of illicit dealing, and prescribe limits to the depredations which are committed on this important branch of the public revenue of the kingdom.

The next question that arises is, admitting the applicability of the excise system to the trade in wine, how far, consistently with the regard we owe to the civil rights of the subject, can we extend that system to a numerous description of persons not hitherto comprehended within its limits? To reason on this subject with

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any degree of precision, it will be necessary to consider that the excise system is composed of two distinct parts, which have no necessary relation to each other. The one consists of rules for the collection of duties; the other of rules for judicial decisions. The first governs the proceedings of the officer in charging the impost; the last governs the proceedings of the court in the trial of offenders. Having stated this distinction, I have no hesitation in saying, that so far as the Bill proposes that the excise mode of levying the duty shall be applied to wine, its provisions are not inconsistent with a due regard to our ancient constitution, and to the civil rights of the subject; for, as the officer will have no admission to any other part of the trader's premises than that in which his wines are kept, and as that part of his premises in many instances is, and in all instances may be, separate, and even distant, from his own house, the repose of his private dwelling, the tranquillity of his home, will not be disturbed by the visits of the officer. That no inconvenience will attend the separation of the wine-cellar from the house of the wine-merchant, in those cases in which they are not separate at present, I do not pretend to say; but I assert that the inconvenience is not of that kind that trenches upon the constitution, and violates the rights of the subject. If, then, the present Bill was simply an application to a new object of that part of the excise system which directs the collection of the duties, I should say that it is not inconsistent with the laws and constitution of the country: but, Sir, the Bill contains other provisions which I own do excite my serious apprehension, and against the dangers of which I am persuaded the right hon. gentleman near me, will, upon reflection, think it necessary to guard. The provisions which I dread are those that subject the dealers in wine to that part of the excise law that relates to the trial of offences.

This is the part of the excise system which Blackstone reprobates as alien to the constitution, and abhorrent to the law of the land. For what is the course of its procedure? It is so summary, and is finished with such fearful dispatch, that a very few words are sufficient to describe it to the House. An exciseman, for the most part needy and necessitous, for his salary is less than a maintenance; an exciseman, who knows that the shortest road to wealth is that of accusation, since half the penalties are his, informs the commissioners that an offence has been committed, and names the supposed offender. The commissioners immediately issue a summons to the accused, commanding him to appear before them, and to answer to the charge. Now in this summons three circumstances are very remarkable: the first is, that the summons does not specify the particulars of the charge, so that the accused, especially if innocent, knows not in what manner to prepare for his defence: the second is, that, contrary to the established custom of the King's courts, the summons gives the accused but three days notice of his trial, so that if he is absent from town, the summons will never reach him, and the first information he will have of the charge will probably be that judgment has been given against him for non-appearance, which the excise law construes as contempt; that a warrant of execution has been issued; and that the officers of justice are in possession of his house. The third circumstance is, that the summons may be left with his servant, or with his child, or in the key-hole of his street door; for the law expressly declares that the summons may be served in either of these ways; so that if the accused should be actually in town the summons may never reach him. Let us suppose, however, that fortune is his friend, and that he receives the summons. What is his situation when he attends the court? Uninformed of the particulars of the charge, he cannot be prepared for his defence. His accuser, on the other hand, comes with a charge matured by reflection, and guarded by every art that a personal interest in the event can possibly suggest. The accuser knows that if he can establish the charge, one-half of the penalties incurred will be his; nor can it be thought surprising that urged by poverty on the one hand, and tempted by the prospect of wealth on the other, he swears with a determined mind. In this perilous situation, to whom shall the defendant turn for protection? Will the commissioners be counsel for the accused? Sir, the commissioners are appointed by the Crown, are removable at the pleasure of the Crown, and are dependent for their salaries on the very revenue against the interests of which he is supposed to have offended; they are parties against the accused: how then shall he escape conviction? and if convicted, and penalties beyond his means, as may often be the case, should be imposed upon him, imprison-

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ment inevitably follows; an imprisonment to which the Legislature has prescribed no limits, and which, therefore, may be for life: nor is this sufficient to satisfy the law; for after his body is surrendered to the Crown, the law still attaches on his fortune; his goods are still seized, and his wife and children dismissed to beggary and want. Such is the nature of the excise tribunal. His Majesty's highest officers of the law are near me. I appeal to them for the fidelity of the description. Will the Attorney General dispute the account I have given of the excise code? Will the Solicitor General controvert the recital I have made of the nature of the summons, of the constitution of the court, or of the frightful dispatch with which its proceedings are conducted? I am sure they will not contradict me. On what principles, then, will they defend the extending the judicial powers of the excise to new descriptions of men? upon those of the constitution? upon those of the ancient law of the land? That, I am confident, they never will attempt; for it requires not their ability, or their professional knowledge to discern that this part of the Bill is abhorrent to every principle which the constitution knows: or will they defend the despotism of the commissioners as necessary to enforce the collection of the duties? That most certainly they will not say; for every day's practice is a proof that the excise jurisdiction can never be supported on this plea, as many of the most important excise causes are, by the officers own choice, determined by a jury, for when the officer thinks himself in the right, he gives the preference to this mode of decision. As little will they contend that the summary proceedings of an Excise-court are essential to the principle of the Bill, as it would be easy to prove that those proceedings militate directly against it; for what is the object of the Bill? Is it not the support of the public credit of the kingdom? Now, of that credit no measures can be so destructive as those which excite inquietude and alarm in the minds of the subject, and distrust of the law under which he lives. The constitution of England may possibly survive her public credit; but perfectly sure I am, that her public credit never can survive her constitution. On what ground, then, can the enlargement of the excise jurisdiction possibly be excused? One only argument remains, which is, that the rigour of the law is softened in practice by the compassion of the court. But to this I answer, that the lenity of the court is the strongest possible proof of the injustice of the law; for it shews that the judicial system of the excise, as it exists in our statutes, is so very oppressive, and so utterly inconsistent with the general law of the land, that even the commissioners themselves are ashamed to enforce its execution. For these reasons, I submit to the consideration of the House, a clause "for giving to persons accused of certain offences against this Act, an option to have a trial by jury."

Mr. *Pitt* said, that for two reasons, it could not be without concern that he should meet the clause with a negative; first, because he would be always inclined to receive with the greatest partiality any proposition from his hon. friend, who never failed to display great ability and good sense, and whose motives were uniformly most pure and upright; and, secondly, from his desire, on all occasions, to promote an object so deservedly popular, as that of trial by jury, where it could be done consistently with the true interests of the public. He was sorry, however, that, in the present instance, he could not indulge this inclination; for, if the arguments of his hon. friend were to be admitted, it would then be necessary to extend the principle of the clause to every other branch of the excise, as well as to that upon wine; for to every other branch would those arguments equally apply. If it were a violation of the constitution in the one instance, it was so in all, and he could be as easily persuaded to give up the ordinary mode of proceeding in every other department as in this of wine! Nay, should he be brought to concur in opinion with his hon. friend, he should not remain at ease, until he had, even before the end of the session, endeavoured to effect a total alteration in the whole system of excise. The adoption of a summary judicature was, in many instances, necessary, and not only to the due collection of the revenue, but even to the convenience of the parties sued. Some gentlemen, from their gestures, seemed to think that this could be no argument against any optional right of trial by jury: but surely if a summary mode of proceeding was, in some instances, convenient to the parties, gentlemen would not wish to give them an option of departing from that mode, solely in cases where it was actually necessary to the revenue. If his hon. friend had manifested any such

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distinction between the wine trade and others subject to the revenue laws, as would make out sufficient grounds for an exception, he should be extremely willing to comply with his motion: but no such distinction having been attempted to be shewn, he should conclude that there was none; and that therefore no innovation could be made in the wine excise, that it would not be palpable inconsistency not to extend to every other department of the excise.

Mr. *Fox* condemned the mode of reasoning adopted by the right hon. gentleman. The summary proceedings adopted by the excise laws were exceptions to the constitution, warranted only by very extraordinary cases; and the catalogue of those exceptions ought not to be swelled without a very strong and sufficient reason. The general argument, therefore, was, in his mind, totally inapplicable: each particular case should be judged by its own merits, instead of arguing, that as the excise laws in general ordained a summary mode of proceeding, that therefore that summary mode must be applied to the particular case of wine. It by no means followed, that, if the clause were adopted, the summary mode of proceeding ought to be abolished in all other cases under the excise laws. That which might be highly proper in one instance, would be very much the reverse in another. A right to trial by jury was what the constitution authorized; and wherever it could be given with perfect safety to the revenue, there it ought always to be allowed: but what was the nature of the offences cognizable under the present Bill? offences which might be fraudulent in their intention, or arise from inadvertency. It became, therefore peculiarly necessary, where the intention might be doubtful, that the case should go to a jury to inquire and to decide. Some crimes carried with them their obvious motive, the action itself speaking the intention of the party; but could that be said of the offences under this Bill? Undoubtedly it could not; and for that reason it was the more proper that a jury should inquire whether it was committed through the *malus animus* of the offender, or through inadvertency. Under these circumstances, impressed with the conviction that the Bill menaced the infliction of severe hardships upon his fellow subjects, and fearful lest it should give a sanction to a summary mode of proceeding, he felt himself most sincerely inclined to favour the proposed clause.

Sir *Grey Cooper* reprobated what he termed an innovation of the excise laws, and expressed his doubts whether those laws could be rendered applicable to the precise case of wine. He entered into a history of the excise laws, tracing them, from their origin, in the reign of Charles 2, down to the present period, and stating the various changes they had undergone, and the manner in which the revenue had been, from time to time, affected by those changes. He dwelt on the danger to which the revenue might be exposed, by changing the mode of its collection, and said, that the commutation tax was a bold measure, as it let so large a portion of the public income as 900,000*l.* loose from the management of excise. The commissioners of that board had exercised their powers with so much moderation, they had "borne their faculties so meekly," and, in short, had acted so unexceptionably for a number of years, that the public had heard of no complaints against them, nor had their administration of the excise laws been cried out against as a grievance. He saw no reason, therefore, to express any distrust of them in respect to the Bill then under consideration.

Mr. *Dempster* declared, that the more the spirit of freedom was introduced into the operation of excise laws, the better they would be relished. He had opposed the Bill in every stage, because he thought it not only severely oppressive on the body of men to be affected by it, but because he was persuaded it would not prevent smuggling. He advised Government to accede to the clause, as he was satisfied it would remove much of the disgust which the Bill had occasioned.

The House divided on the motion; Yeas, 30; Noes, 95.

June 9. The Bill was read a third time. On the motion that it do pass,

Mr. Alderman *Newnham* expressed his sorrow at the supineness of the public with respect to a Bill which extended the excise laws in a manner so irksome to the subject, so oppressive to trade, and so little likely to prove advantageous to the revenue. Perhaps the public were ready for a general excise. He felt himself at a loss for argument to prove why the excise laws might not be applied to every other article of import and consumption as well as wines. In regard to spirits, he was well

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assured, that the golden dreams of the minister had not been realized, since smuggling had not been prevented, neither had the large revenue been received from that article which had been expected. He was satisfied that the minister would find his hopes equally disappointed in respect to the excise on wines, and he wished he would pledge himself, should that prove to be the case, to trace his steps back again, and to put the collection of the revenue on wines into that train from whence he had removed it.

Mr. *Drake* declared, that he had so much confidence in the Chancellor of the Exchequer, that he did not think he had any object in proposing the Bill, but a laudable anxiety to secure the collection of the public revenue, to that extent in which it ought to be collected. As gentlemen on the side on which he stood, seemed desirous even of laying fresh burthens on the subject sooner than not obtain the surplus they all so properly longed to have secured, he thought it might operate as an argument with them to support a Bill, which had for its object to secure the revenue; an object in the attainment of which they ought all to join, and, to borrow the words of the Speaker in his late memorable address to the Crown, prove that they had "but one heart and one voice in the maintenance of the public credit and prosperity of the country."

Mr. Alderman *Hammet* said, that the excise laws and every extension of them were repugnant to the constitution, and to the freedom of the subject. He hoped if the present Bill should fail, that the right hon. gentlemen would come forward and propose its repeal, and not unnecessarily oppress the trade of the kingdom.

Mr. *Pitt* said, that he believed no person could seriously suppose him hostile to the commerce of the country. At least, his enmity had hitherto proved ineffectual, for the trade of the country had been in a thriving state ever since he had the honour of coming into his present situation, and he believed it was in a state of progressive improvement. As to the pledge demanded of him, he would, in the terms proposed by the hon. gentleman, most heartily accede to it, "that he would not unnecessarily oppress the trade of the kingdom;" and as to the other pledge suggested by the other worthy magistrate "that if the present Bill were found not to attain the end for which it was intended, that he would consent to its repeal," he should only answer, that if the Bill were by experience to be found ineffectual, he should think it his duty to discover and apply such regulations, as might remedy as much as possible all its defects.

Mr. Alderman *Sawbridge* said, that the right hon. gentleman had afforded the House admirable consolation by having declared, that if the present Bill were not found sufficiently oppressive, he would propose such regulations as should oppress the dealers in wine still more. Excise laws were pernicious and oppressive. Frequent instances arose of their being extended; and if that House did not put a stop to their farther extension, a general excise would soon be the consequence.

Mr. *Fox* declared, that he would oppose the Bill, because he had heard nothing like an argument to prove, that wine was one of those articles to which the excise laws ought to be extended. He disliked experiments on the liberty of the subject; and the present he considered as a rash experiment, it not having been made appear, that it was necessary in the first instance, or at all likely to answer in the second, viz. the rendering the revenue from wines so far more productive than it had been, as to sanctify the means resorted to for making it so. The duties on malt and beer had been found admirably adapted to collection under the excise, and a better mode of collecting those duties, he verily believed, could not easily be discovered; but did it therefore follow, that all duties would be best collected under the excise laws? Surely experience testified the reverse to be the fact. The duties on tea, formerly a great and essential article of revenue, had been under the collection of the excise. How miserably that mode of collection had failed, they all knew; for they had been obliged to abandon it altogether, and to resort to another experiment, called the Commutation tax; an experiment which, in all probability, those who proposed it would, ere long, have cause to lament their having ever hazarded. Spirits also had been put under the excise; but spirits, he believed, would not be found to have afforded a better revenue while under the Excise than under the Customs. With regard to the present, he thought it a rash experiment; and it behoved the House to be particularly careful how they countenanced it, after having heard the minister avow, that if the Bill failed in effect, in-

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stead of acknowledging the fault to be in the Bill, and proceeding to an immediate repeal, the right hon. gentleman was determined obstinately to enforce it by every subsidiary regulation which could be found.

The House divided: Yeas, 71; Noes, 33.

Debate in the Lords on the Bill for preventing Frivolous Suits in the Ecclesiastical Courts.] June 14. On the motion for the second reading of the Bill for preventing frivolous and vexatious suits in the Ecclesiastical Court, and for the more easy recovery of small tithes,

The Bishop of *Bangor* observed, that the objects of this Bill were principally two: 1st, to correct the practice of the ecclesiastical court in certain cases; and, 2ndly, to render the recovery of small tithes more easy: but both these points were so managed in the Bill, that the practice of the ecclesiastical court was altered where it wanted no amendment, and the mode prescribed for the recovery of small tithes was rendered more difficult than it was before. His lordship then entered into the examination of the material clauses of the Bill, and shewed, that the limitation proposed by it for suits of defamation being only three months, would make it almost impossible for the injured person to have an opportunity of vindicating himself, and restoring his good name among his neighbours, as he is often the last person who comes to the knowledge of the aspersions thrown on his character. The old as well as the present practice of the ecclesiastical courts was, never to receive suits for defamation, unless they were commenced within a year after such defamation had been uttered. The courts in Westminster-hall were permitted by act of parliament to receive suits of this kind at any time within two years. It was absurd to suffer a court to exist with a jurisdiction in certain cases, and then to restrain and cramp it in such a manner, that it could not once in fifty times exercise its jurisdiction. As to that part of the Bill which limits suits to eight months for adultery, solicitation of chastity, and striking or brawling in a church, &c. it was absurd to fix the same limitation to crimes so very different in their degree of guilt. This limitation was too short in suits for correction on account of adultery; for as adultery was committed in secret, so it was the interest of the offending parties to keep it secret; by which means it would often happen, that the person injured would not hear of it till it was too late to maintain a suit, if the limitation proposed by this act were to take place. There was no occasion to insert the words "solicitation of chastity," as there was no instance of a suit of that kind having been brought in modern times into the ecclesiastical court; and were a suit of that sort attempted to be instituted there, it would be rejected, as those matters are more properly left to the temporal courts, where they are tried under the description of actions for seduction. Notwithstanding that he would always oppose every wanton and improper attack on the ecclesiastical court, yet he did not desire to see an extension of its jurisdiction; and therefore were this Bill to come to a committee, he would move for leaving out the words "solicitation of chastity," as he did not apprehend that that court claimed any cognizance of that sort of crime. His lordship observed likewise, that there was no occasion to have said any thing in the Bill about anti-nuptial fornication, as no suits of that sort had been brought into the courts at Doctors Commons in the memory of the oldest practitioner; and that he had been instructed to say, upon good authority, that if the practice were otherwise in the country courts, the parties would be relieved on an application to the court of Arches. He expressed his surprise that a suit should ever have been allowed for anti-nuptial fornication, and acknowledged that he believed that some irregularities were committed in the inferior jurisdiction; but he did not believe that there were any grounds for the loud complaints which had been made; and as an appeal would lie in all cases to the court of Arches, or some other superior court, that appeared to him to be a good answer to every objection. The bishop then proceeded to examine the other part of the Bill respecting the more easy recovery of small tithes. And here he first observed, that the plaintiff's being obliged to give a month's notice to the defendant before the commencement of the suit, would be a constant ground for dispute and altercation, as the defendant would always contend, that the notice was not conformable to the law; and if it happened to deviate in the most minute circumstance, the plaintiff would be nonsuited, and would be obliged to go through the whole again at a great ex-

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pense. In a case of this sort notice was absolutely necessary, as every occupier of land knew, that he was obliged by law to set out the tithes, and to inform the tithe-owner of it; and if he did not do this, but subtracted the tithes, he knew that a demand would be made on him in some shape or other, and therefore a law-suit would never come unexpectedly on a man in this situation. He farther remarked, that the liberty which the defendant had of making a tender for the tithes by him subtracted, would place all other tithe-owners in a most disagreeable situation, as the consequence would be, that the tithe-owner must accept of the tender, whether it was equal or not to his demand; for, as the tithes had been subtracted, he could not tell whether the money offered was a compensation; and as it would always be in the power of the occupier to prove that the sum proposed was the full amount of the tithes of his crop, the tithe-owner would be afraid to commence a suit under this uncertainty, lest he should lose his cause, and be saddled with full costs, as the Act directed; and it would therefore frequently happen, that the tithe-owner would be obliged to take less than the real value of his tithes. He had considered this clause with the greatest attention, and, on a supposition of the tithes being subtracted, he could not devise any method by which the owner of the tithes would arrive at a certain knowledge of the value of them, and yet he was to accept of the tender, or commence a law-suit under the greatest disadvantages; and he left it to the candour of their lordships to determine, whether it was reasonable that the property of any man should be put into such a situation. He then entered into an examination of the statutes for the payment of tithes, and observed that they were principally three, two of which passed in the reign of Henry 8, and the third in the reign of Edward 6. On this occasion, he must beg leave most earnestly to recommend it to the House to consider whether this Bill would not work some alteration in those statutes, which were the Magna Charta of tithe-owners. He added, that this was a subject in which the laity as well as the clergy were concerned, as he apprehended that the former had as great, perhaps a greater property in tithes than the clergy. With respect to the extension of the Act of king William for the recovery of small tithes from 40*s.* to 10*l.*, he remarked that there was no occasion for this extension, as the Act, as it now stood, answered the purposes for which it was made extremely well; and he did not understand that any persons, who were concerned in the receipt of tithes, desired to have any alteration. Under all these circumstances he felt himself justified in moving for the rejection of the Bill.

The Archbishop of *Canterbury* contended, that most unreasonable advantages were given throughout this Bill to the defendant, by which means many crimes which deserved correction, would go unpunished; and as to the second part of the Bill, the poor vicar, who always found much difficulty in the recovery of his tithes, would become more embarrassed than he was before, if this Bill should pass into law. He had no doubt but that irregularities were committed in the ecclesiastical courts by needy proctors; and what court was free from such irregularities? But he did not think that a sufficient reason to pass such a law as this, which acknowledged the jurisdiction of the ecclesiastical court, and yet put it under such restraints, that it could scarcely exercise its jurisdiction for the correction even of such crimes as were allowed to belong to its cognizance. His Grace shewed this in several cases, and particularly in those of defamation and adultery; and here he made some observations on the dissoluteness of the manners of the age, and remarked, that, instead of making our laws more lax and loose, the vices of the times called for more restraints. His Grace concluded with seconding the motion.

On the question being put, the Bill was rejected.

Debate in the Lords on the East India Judicature Bill.] June 14. The House being in a Committee on the East India Judicature Bill,

The Earl of *Carlisle* remarked, that it was the sequel to one great measure which had already engaged their attention, but that it was the worst part of it, as it attacked the constitution and took away the trial by jury. Before the House consented to a bill of that nature, they ought to have a case of strong necessity satisfactorily made out, and not content themselves with a mere speculative expediency; and that, he contended, was all Administration had to plead in its behalf. Where were they to look for grounds of necessity to rest the measure upon? Whence were

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they to derive that information, without which the House ought not to proceed any farther? He cited the case of the persons tried and convicted a few years since for the murder of lord Pigot at Madras, which proved, that juries at least were competent to try every size of East India delinquency likely to occur. He reminded the House of the court of Star-chamber, of the Commission court at New York, and of the abuses which those courts had committed, to the great oppression of the subject. He alluded to the inventory clause, now omitted, and that which had been introduced in its stead, declaring that the second had proved worse than the first, inasmuch as, by the second, the parties were to deliver in the accounts of their property in secret, and to lie wholly at the mercy of the King's ministers. In the illustration of the danger of secret justiciary proceedings, besides the Star-chamber, he desired their lordships to recollect the celebrated trial at Athens before the thirty tyrants, who condemned every one of the persons tried before them; whereas had they, as had been the ancient custom, been tried before the people, it was well known that not one of the accused would have been found guilty. How dangerous a use might a minister make of the new tribunal, by the influence which it would give him over an Indian governor, to whom he might say, "Do you let me have my way in India, and you may multiply crimes with impunity, as you'll be tried when you come home by a tribunal, over which I have considerable influence." In conclusion, the noble Earl moved to leave out all the words from the beginning of the second clause, and to insert, by way of amendment, a clause repealing all the part of the former Bill which institutes and authorizes the new tribunal.

Lord *Walsingham* could not avoid contending, in opposition to the sentiments of the noble Earl, that there was an absolute necessity for some new judicature to be provided, in order to try those great East India offenders, whose crimes were of a nature so complicated, and the proof of whose guilt must necessarily be so voluminous, that it would be impossible for any court and jury to go through the whole in a day; and their lordships well knew, that if any ordinary jury were suffered to separate pending a trial, they would be liable to corruption. His lordship said, that at the trial of Messrs. Stratton, Floyer, &c. the trial lasted an immense period of time, and even then he understood the written evidence on each side was a great part of it obliged to be gone into. He alluded to Mr. Grenville's Bill for trying elections, and spoke of the constitution of the new tribunal as an improvement on that authorized by Mr. Grenville's Bill. He mentioned the lingering and fruitless attempt to prosecute sir Thomas Rumbold, as a proof of the actual necessity for some such measure. After a variety of reasons to shew that the sort of causes which would in all probability come before this tribunal for trial, would be of a size infinitely too great for trial before a common jury in the courts of King's-bench or Common Pleas, his lordship took notice of the inventory clause being omitted in the present Bill, and said he was glad it was left out, as it had occasioned great uneasiness; and that he thought a good ground for Government, under certain circumstances, to relax and give way upon.

Viscount *Stormont* said, that his predictions two years since, that the clause now omitted, must be left out, was become history, and yet at the time every praise was bestowed on that very clause which had been pronounced the most essential in the Bill. The whole of it, however, he was persuaded, must be abandoned, and the sooner it was done the better. The operation of the Bill must be productive of much inconvenience, and there was no necessity for any such measure. He censured the constitution of the new court, and observed that judge and juror were now so blended, that in fact the court would be without either judge or jury. He alluded to the trial of Mr. Stratton, and declared that the House seemed to have adopted the vulgar error, and misapprehended the reason why the sentence had been so mild. The truth was, it was proved that lord Pigot had overturned the government of Fort St. George previous to his being seized; and he had likewise snatched a signed minute out of the hands of a gentleman of the council, and suddenly suspended that gentleman and another, and thus made a majority in his own favour. These facts had been pleaded in mitigation, and they had weighed considerably in the minds of the judges. After assigning many reasons for the vote which he should give for the amendment, entering at length into the history of the Star-chamber and High Commission court, and speaking of the celebrated cause in which a jury gave 100,000*l.* damages to

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the duke of York against Titus Oates, his lordship went into the history of India, and said, he did not expect again to hear any boasts of our great wealth there, as a measure had been taken which would indeed have been unpardonable, had not extreme necessity justified it, viz. all the Company's servants, who received above 30*l.* a month salary, were obliged to take the whole of their salary's amount in Bengal paper payable here in London.

Lord *Camden* declared, that if he himself were to be tried, as an East Indian delinquent, for his life, he should think it more safe in the hands of a court so constituted as the new tribunal, than in that of any one court whatsoever. Instead of having neither judge nor jury, it had the benefit of both so happily blended, that the judges became (what they never were before) jurors. The ancient constitutional custom of the courts of law was, the jury found both the law and the fact; and where there was a doubt as to the law, the judge was to declare it, but he was not to dictate to the jury, nor to refuse to take their verdict; that was entirely and wholly their province; and, where a judge interfered with it, he abused his trust, and did not do his duty. According to the constitution of this new court the judges were let into the fact, and the jury into the law, so that they judged equally, which must be a considerable advantage, and essentially conducive to the purposes of substantial justice. His lordship spoke of the cases to be tried by this new tribunal as singular and difficult. He asked what could a jury of merchants tell of the zemindars, the polygars, the rajahs, the ranas, the ryots, the tanks, and all the strange list of names of men and things in India? The great length of the causes, added to this, peculiarly pointed out the necessity for such a new tribunal, because, in criminal causes, he never knew a jury separate but for a momentary refreshment; and the reason was obvious—to avoid exposing them to corruption. As to the last clause in the bill, empowering a court to proceed to sentence an absent delinquent on the cause, he declared he had rather, were he the object, that it should stand so, than that sentence of outlawry should be incurred. He mentioned high treason as a crime upon which a court could even now proceed to try, and give sentence on the cause in absence of the culprit.

Lord *Loughborough* said, that he rose under the strongest emotions of uneasiness, such as, he believed, had imparted themselves to most of their lordships, to find again in the House a bill which had two years ago been introduced, and, after so long a trial, had been found so miserably defective, that it stood in need of a bill of twenty pages to prop it up, and to render it at all practicable. It had been imputed, that there was something uncandid in his noble friend's suffering the Bill to get into the committee before they debated its principle. Approving, as his noble friends and he did, of the clause that repealed the inventory clause in the former Bill, he begged to know how they were to debate the principle at all, but after the Bill had got into the committee? He defied any noble lord to prove the necessity on which the Bill rested. Had there lately occurred a case, where there was any great East India delinquent to be tried, for which purpose the courts of law were not sufficiently well adapted? The only instance in his memory had been the case of Stratton, Floyer, and others, which he himself, when Attorney General, had conducted in the court of King's-bench,* and to a full and complete trial and conviction of whom he had not found the smallest difficulty. With regard to the length of time, and the papers given in evidence not being all read, he did assure the noble lords they were mistaken. The trial took up no more than a reasonable time, and there was not a piece nor a scrap of evidence at all material which was not fully gone into. Having the cause a good deal at heart at the time, he had not missed any, as might well be supposed; and when he informed the House that the counsel against him was Mr. Dunning, he would leave them to judge whether it was likely that any evidence which could at all serve the defendants' cause was neglected. The fact was, there was no difficulty. The sentence he, for one, did not think sufficiently severe. Others thought differently. It lay, however, altogether in the discretion of the court to determine what the sentence should be, and he had that day heard from the noble viscount weighty reasons to account for the apparent slightness of the sentence. There was nothing therefore in the only trial within his memory to prove that any new tribunal was necessary. Having stated this, he asked for what was the proposed left-handed court to be instituted? He warned their lordships against

* See Howell's State Trials, vol. 21, p. 1045.

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consenting to change the laws of the land unnecessarily. He mentioned the several courts of a similar nature under which our ancestors had groaned, such as the court of Star-chamber, the court of Lords-marchers in Wales, the Commission-court at York, the High Commission court and the King's-council, every one of which had been encroachments on the common law, and pregnant sooner or later with gross abuses. His lordship pointed out the era at which each of these several courts were instituted, and said, that, since the Revolution, a brighter beam of liberty had blazed than before; things had been better understood, and the common law had flourished and been less trenched upon by new-fangled tribunals. Having asserted that every new court was a new evil, he proceeded to state that there was not only no need of the tribunal provided, but that the cause of justice would be worse served after it was instituted than before. Its constitution was radically defective, and, upon a comparison with a trial by jury, the latter was by far the most desirable tribunal for a delinquent. The making three of the judges act as jurors with the twelve members of the two Houses, he reprobated as the most absurd of all ideas; and, by the definition of the duty of a judge, as the courts are constituted at present, he shewed reasons for his opinion. He examined several of the clauses of the Bill, and said some of them repealed more useful statutes at present in being, others took away the Habeas Corpus, and deprived the delinquent, prosecuted before the new tribunal, of the advantage of that writ; others again, he contended, barred the use of a writ of error, and made the decision of the new court final. He entered into a comparative description of the constitution of juries as at present, and the constitution of the new tribunal. He asserted that the latter were more exposed to be corrupted, supposing either of them capable of being corrupted, than the former. Jurymen were unknown, and consequently inaccessible till the moment of trial. Members of parliament, on the contrary, were well known; their connexions, families, friends, mistresses, might be come at; they had their *mala tempora fandi*. He condemned the clause empowering the new court to try a cause in the absence of the delinquent, and told a story from a reporter of Scotch cases, of a person who had been for some years dead, and had been tried; but, to favour the fiction, the dead man's bones were dug up and placed at the bar. He made numberless objections to the Bill, accompanying them with arguments, and pointing out the bad effects that its operation would, in all probability, produce. He concluded with solemnly and earnestly exhorting ministers, if they were determined to pass the Bill, to take away the judges from the court, and not to suffer any processes issuing from it to come into the courts of Westminster-hall. Let not, said he, the pure stream of justice be contaminated; but if a new tribunal must be instituted, for which certainly not the least exigency arises, in the name of Heaven adhere absolutely and exclusively to your new tribunal.

The Earl of *Carlisle* declared, that after the defects of the Bill had been so ably stated by his noble friends near him, it would be impertinent in him to attempt saying much more. He could not, however, avoid expressing his concern, that the present Administration should be so unworthily inclined to diminish the rights of the people. It was a matter which ought to alarm their lordships, and excite their vigilance, since they might rest assured that nothing could be taken from the public which would not adhere elsewhere, and, if put into a political crucible, there would, he doubted not, be found certain ministerial chymists who would make it undergo a chymical process, which would leave the white flowers in the retort, and every thing sublimated from the public body, would doubtless ascend and mix with that mass already too much swelled. To speak without a metaphor, and in plain English, he thought that he saw a settled system in the present ministry, to destroy the rights of the public one by one, a system which had manifested itself in respect to trial by jury in particular; and he was confident, that whatsoever the people might be deprived of, would be thrown, with unconstitutional profusion, into the scale of the Crown.

The Marquis of *Carmarthen* said, that as the noble earl had thought proper to intimate, that the present Administration had a settled system for the destruction of juries, he could not sit still under an imputation which he felt to be so injurious and so abhorrent to his nature. Most fervently did he hope, that whoever, whether in or out of administration, should afford reason for suspicion that he had any

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such unconstitutional purpose in view, would meet with a firm resistance from their lordships, and the other House of Parliament. His opposition they should undoubtedly receive. The noble earl had opened the debate with many arguments against the Bill, of great weight, allowing that they were just and applicable. To them he had offered no objection, thinking it more becoming both to the noble earl and to the House to leave it to their judgment to decide whether the Bill was defective in the particulars which the noble earl had described, and whether what he had stated made it, in their opinion, necessary to adopt the amendment proposed; but, conscious as he was, that nothing could be farther from the intentions of Administration than any thing like a settled design to attack trial by jury, or to take away that valuable right in any case whatever, but where the peculiar circumstances made it indispensably necessary, he must take the liberty of declaring that such imputations were highly unjustifiable. The Bill then under consideration was a bill for the institution of a new court of judicature for the trial of offenders of a peculiar class, and of the crimes of peculation and corruption of an extraordinary nature. From the sort of cavil and objection which had been urged against it upon that day, it should seem as if it were a bill for the institution of a tribunal to try offences of a paltry and subordinate degree, and such as were likely to be committed every day, and were capable of the cognizance of every justice in every country village. Let the House recollect that the case was far different; the sort of offences, for the trial of which the new tribunal was to be provided, was distinct and different from any other, they were such as but seldom occurred; and a fairer or more equitable tribunal could not, he conceived, have been instituted for the purpose. After the cry which had gone forth, and the clamours which had prevailed two years ago on the subject of the enormities carried on in India by the servants of the Company, had his Majesty's ministers sat still, and produced no measure for their check and control, he was persuaded that they should then have heard enough of complaint, and that Administration would either have been charged with indolence, or, what was worse, with a wilful inattention to their duty.

The Earl of *Carlisle* answered, that the sort of measures lately proposed by Administration, justified him in declaring that he thought he saw something like a systematic and baleful propensity to destroy the rights of the people, and particularly the right of trial by jury. In justification of this assertion, he should beg leave to mention the Bill for subjecting brevet officers to martial law, the Wine Excise Bill, the Bill then under discussion, and several others.

The committee divided on the amendment. Contents, 9; Not-Contents, 39.

Debate in the Lords on the Militia Bill.] June 16. On the order of the day for the second reading of the Militia Bill having been read,

Viscount *Townshend* spoke as follows: —My lords; I rise to express my concern at the clause in this Bill, which exempts one third of the militia from being called out and trained, in deviation from the principle of this national establishment. The protection of this country by a militia, and indeed of every other, by its natives, does not, I conceive, depend so much on the accuracy in field manœuvres and splendour of accoutrements, as on their numbers and zeal, and the facility of extending this constitutional defence upon every check it may receive. If it is to be limited, contracted, and high polished, why not have more regular regiments? But if the object be the protection of the kingdom, in the absence of the regular troops for the preservation of our colonies and distant dominions, why not avail ourselves of that resource which an attachment to the property and constitution of this country must always produce?—an armed multitude of freemen, under proper constitutional regulations, which must outnumber any force an invader can bring against us. This, my lords, was the principle on which I introduced the first Militia Bill in the year 1756, and which the illustrious father of the present minister seconded and supported; and he was ready, at all times, from a sick bed, to attend the measure. How far this principle has been deserted, the system mangled, and vitiated in its execution from time to time, I submit to the conscious reflection of every friend to the stability of this country. The unnecessary rivalship of the regular troops in the parade, and formality of a camp; the ambition to outvie the new levies, or even veteran regiments by the superior size of the men,

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when the rotation of the militia service ought to have strengthened the country in general, and which has also so much interfered with the recruiting the army; and lastly, the ingrafting into the militia corps officers of no connexion, or legal qualification whatever, have been deviations, equally unconstitutional and unwarrantable.—The present period I flattered myself was a proper one to correct these deformities, and restore the primitive principle of this national measure. Its principle had prevailed over all the jealousies of power and lucrative expediency; its service had been experienced both in the field and in the disgraceful devastations of this metropolis; and, unthanked and unregistered as it was at the conclusion of the last war, its utility was acknowledged by all. To diminish then its numbers, appears founded on no good policy, at a time especially when the great bulwark of this nation, our navy, is by no means superior to our national enemies, and when most extensive, as well as expensive fortifications have been proposed, which, if not properly garrisoned, might be turned against ourselves; that the best defence of this country, as well as of all others, next to that which must prevent an attack by sea, is an active, animated militia, is a truth equally established in history. Without dwelling upon the former, replete with instances of this kind, let us only for a moment look at the policy of other states, our rivals; in particular, France has a numerous militia. Why? to enable her regular troops to act offensively. Spain has 60,000. They did great service at the siege of Gibraltar; they are exercised in time of peace, twice a year, and are highly esteemed. If I am asked how disciplined? My answer is, they have a character to lose in their parishes amongst their neighbours, if they behave ill. The king of Prussia has a species of militia, for he disbands one-third of his regiments every year for ten months, and they are forthcoming on the first emergency, as well as to an annual exercise; or on any check his arms receive, he is reinforced with recruits of disciplined subjects; nor does he keep a poor debilitated veteran to the last moment, and then send him forth a beggar past labour: rotation and renovation is his object. The emperor has a militia of 60,000 men in his frontiers of Hungary and Transilvania, horse and foot; they have lands, and no pay: the former he deems a sufficient motive for their allegiance and activity. Shall we, shall Britons be wanting in this? Let us look at Switzerland, which, in the midst of the most powerful monarchies, maintains its independence by a strong militia; nor do I know any of these states which needs any other protection, but that which pleases to call in a foreign power. In this view, my lords, I must own I cannot reconcile myself to the parsimonious defalcation of one-third of the militia—a saving, I hear, of about 10,000*l.* a year; nor can I admire the enrolments for six years, though a measure to prevent the interfering with the army. It is rotation which was, and I conceive is, the first principle of the militia; and if this was regularly adhered to, I think the army would have a fair scope for recruiting. But, my lords, could I flatter myself my poor ideas would prevail, I would wish to put the three services at once on such a footing that they should reciprocally aid, and not embarrass each other. I would always consider the navy as the elder brother, the army as the second, and the militia, though the third, as no less respectable, indigenous to the soil. I could wish that the army, and marines especially, should ever assist the navy; that whenever there was a propensity in the soldier he might resort to the navy; that the limitation of the militia service might, under like circumstances, feed the army; and that humanity should dismiss the veteran at a period equally capable to improve the militia or his native soil.—As I am not vain enough to suppose that these ideas will prevail at this period, I can only lament that a degree of jealousy should counteract what I conceive would tend to great national harmony and strength, and that the great bulwark of this nation seems rather disunited and discouraged than countenanced and extended. The exception of one-third of the militia may be attended with great partiality, at least solicitation; and though I by no means wish to see a militiaman a splendid soldier, yet that any number of men should be called out on an emergency without the knowledge of the weapon they are to handle, I conceive to be an absurdity, and repugnant to those sentiments upon which military confidence must rely. The saving is surely a poor one, when compared with the objects of public expenditure which have been gratified. My reverence for public economy, as well as my attachment to this national

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measure, will never allow me to put the event of the latter upon a contest with the former. I am convinced of the necessity of every possible saving; I know how enfeebled and exhausted we were by our ill-conducted efforts and corrosive jobs last war; and that this nation can never rear her head again under the pressure of our present debt. I will not therefore opiniate this measure, nor be for rejecting a great national security for its present defects. I am convinced that so wealthy and well-cultivated a country can alone be defended by the spirit and number of its inhabitants; and I trust, that as the danger augments, the sense of their duty will operate: as long as the form and the example of the militia exists, they can neither be slaves to any foreign or domestic power; and when this national and constitutional establishment fails, I am as confident that no other can be formed equally safe, salutary, and efficient.

The Duke of *Richmond* agreed, that to have the use of arms learnt as universally as possible, was a very desirable thing; and thought likewise that discipline was carried a great deal too far in the militia. It was in vain, however, to complain of substitutes, since the militia must necessarily be, for the most part, an army of substitutes. That there had been some corps remarkably well disciplined, was undoubtedly true; indeed, the noble viscount's objection to the militia colonels wishing to have their ranks filled with the able-bodied men, appeared to him rather too confined. The object of the Bill was clearly economy, and the single question was, whether it was right to endeavour to effect such a saving as the Bill professed, or not? That the militia ought to be properly supported was a point not to be disputed, and he should conceive that it might be supported upon the proposed plan. The Bill was a bill of experiment, and as such he hoped it would pass.

Viscount *Townshend* begged leave to remind the noble duke, that he had not complained of there being fine tall men in the militia, but merely of those men being continued in it on account of their tallness, to the exclusion of others. He was ready to admit, that, in general, stout men could bear more fatigue than little men, and were therefore fitter for soldiers; but he had seen in Germany, in the Dettingen year, a regiment of short, scrubby, punchy, ill-dressed and mean fellows in the Austrian service, who, though they scarcely knew the use of arms, when the day of battle came, convinced all present, that it was not tall, well-looking men who always did the best service in the field.

The Duke of *Manchester* professed himself a sincere friend to the militia, and rejoiced that the ill-grounded jealousies which had prevailed in the army respecting it were done away. He had attended several meetings where a number of members of both Houses, and other gentlemen of the militia, assembled for the purpose of discussing the question, how the militia could be rendered most serviceable; and their uniform opinion was for calling the whole body out every year and training them. He wished therefore that this idea had been adopted.

The Earl of *Hopetoun* reminded the House of the origin of the militia, observing, that at the time of its institution the nation was so defenceless, and so panic-struck, that it knew not where to look either for attack or defence, till the people, roused by their danger, and ashamed of standing indebted for their safety to the Hanoverians, turned out and took up arms to defend themselves. From that period the militia had flourished; and as the country gentlemen had acted with the ardour of Englishmen, anxious for the preservation of the constitution and of their liberties, he had no doubt but the militia would continue to deserve the high character to which it was entitled.

Earl *Stanhope* remarked, that the Bill had two distinct objects: one was to save 28,000*l*., the other to alter the customary period of service of the militia, and to call out only two-thirds of them to be trained and exercised. In regard to the latter object, it was endeavoured to be attained in a way the most absurd; and it would be extremely easy to prove that, by proper care, both economy and utility could be better answered than by the means proposed by the Bill. What was it which the Bill enacted? That all the men should be ballotted for first, and that only 21,000 should afterwards be ballotted for to be trained and exercised; so that, in fact, the real militia in actual service would be no more than 21,000: the one-third would prove merely a militia roll. What was this, but putting the nation to a great expense to very little purpose? whereas nothing could be more easy than to have a militia of 42,000 men at the same expense which it would cost to have a militia of 21,000, as this Bill proposed.

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His plan was this: ballot 21,000 militiamen, and instead of five years, let the men be ballotted for six years service. At three years end ballot 21,000 more: call out and train, and exercise 7,000 every year. At three years end, the first 21,000 would be all trained and exercised. Dismiss them to their own homes at that period, and then begin upon the second 21,000, taking 7,000 to be trained and exercised every year as before. Thus the actual expense to the country would be no more than the expense under the present Bill, as the country would not have to pay for more than 21,000 at once, and yet would be in possession of a right to the service of 42,000 upon any emergency. His lordship stated the militia to be a description of force most desirable to be preserved, as it not only was the best defence of the country, but of the constitution. The militia was surely, for that reason, the very last service to apply economy to. The best economy was to prevent a war, and to keep the country in a state of peace. It would be wiser, therefore, and better economy, to treble the militia, than to diminish its numbers. What was it secured peace, but the being able to wage powerful war? Be strongly armed and ready for battle, and battle would not be offered. Have a navy fit for sea, and a militia numerous and well disciplined, and we might ensure a continuance of peace. As to the lower order of the people being at present knowing in the use of arms, it was a mistake. Many rustics, their lordships would find on inquiry, knew no more of a musquet and its use, than of a reflecting telescope.

The Bill was read a second time, and ordered to be committed.

Proceedings against Mr. Hastings—Motion for a Call of the House.] June 16. Mr. *Burke* alluded to the lateness of the session, and the slow progress the proceedings against Mr. Hastings were likely to make, which rendered him apprehensive that it would be impossible for the House to get through the whole of the charges in the present session. He should therefore, if it was the general wish, postpone the remainder, or such parts of them as the House thought proper.

Sir *M. W. Ridley* thought it impossible to go through the whole in the present session.

Mr. *I. H. Browne* said, there could be no objection to the delaying a part of the proceedings till the next session; but, as the body of charges contained three more immediately important, and as one of those had been carried for Mr. Hastings and another against him, he thought it right, if the third were carried against him, that the House should proceed to the end, because, otherwise a disagreeable impression might remain against him.

Mr. *Duncombe* thought it might be for the convenience of Mr. Hastings, as well as of the House, to defer the proceedings.

The Earl of *Surrey* remarked, that the party accused could not be supposed to have any wish so much as for a speedy decision; but should Mr. Hastings and his friends be ever so desirous of coming to a conclusion with the business, it would be impossible for them to be gratified; for it was probable the House would be prorogued before they could possibly get through the whole of the charges.

Major *Scott* said, that the House must be convinced, that Mr. Hastings could have but one wish, viz. that not a moment's delay should take place, but that the charges should be gone through this session. Speaking for himself, as an Englishman, he declared, that it would be a glaring injustice to Mr. Hastings to postpone the business to another session; but, speaking as a member of parliament and an Englishman, who had the honour and welfare of his country at heart, as connected with the East India Company, he would go farther, and would declare it to be his deliberate and solemn opinion, that the fate of the British empire in India depended upon a termination of Mr. Hastings's impeachment during the present session. He implored the House to consider what was the state of India, at the present moment. Did the House know that we had intelligence from India of four months and six days date only? He had conversed with gentlemen of honour and undoubted information, who left Calcutta in February last; and from all he had heard, he was confident that our existence as a nation in India, actually depended upon this single circumstance, whether the inquiry into the conduct of Mr. Hastings was finished or not before the prorogation.

Mr. *Hamilton* contended, that it was the highest injustice to stop the course of the proceedings contrary to the wish of the party accused: he should, therefore, move for a call of the House, and would by no means consent to any postponement of the business.

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Mr. *M. A. Taylor* shewed the impossibility of the House being able to go through the whole of the business this session, and strongly contended for the postponement.

Mr. *Fox* professed himself a warm friend to a call of the House, if an effectual call could be moved, because it certainly was a most desirable matter for the House to go through the whole of its duty respecting Mr. Hastings during that session. If gentlemen would not attend, the fault was theirs; but it certainly would not be proper to proceed in so extremely important a business in thin Houses.

Major *Scott* returned his sincere thanks to the right hon. gentleman (Mr. Fox), who had talked of proposing a call of the House. He sincerely hoped that such a measure would be adopted—the fate of India depended upon it, and he trusted that the right hon. gentleman did not coincide in opinion with an hon. gentleman (Mr. Sawbridge), that the sooner we lost India the better. If he did, he could not pursue a more effectual mode than to postpone the business to another session.

Mr. *Pitt* observed that, perhaps it might be impossible to go through the whole of the charges; but certainly, after that relating to the princesses of Oude had been decided, the remaining nineteen could not take up so much time as the three others had done, and therefore, it would be right to go on as fast as possible, and, by all means, to proceed in the Oude charge: but whether they should proceed any farther in the present session or not, the whole of the evidence, at least, ought to be closed before the prorogation.

It was accordingly agreed that the consideration of that charge should come on, upon the ensuing Friday.

June 21. Mr. *Hamilton* rose to make the motion for a call of the House, agreeably to the notice which he had given. He began with stating, that he had expected the assistance of a right hon. gentleman (Mr. Fox); but, notwithstanding his absence, he should persevere in his purpose, determined as he was to bear all the odium and unpopularity that might attach to it. It was needless for him to take up much of the time of the House in justification of the propriety of his resorting to the only means of enforcing a full attendance, with a view to go on with the charges against Mr. Hastings, so as to finish them in the course of the present session. The only objection to his motion which could be urged, was, the inconvenience that might be felt by individuals; but when the insignificance of that objection was opposed to what was due to the feelings of a persecuted and accused man, he hoped the justice of the House, and a regard to their own dignity and character, would induce them to support his motion; a motion which he declared he brought forward in behalf of one whom he had never seen but at the bar of the House. He reasoned on the circumstances in which Mr. Hastings stood, declaring that he had spent the best part of his life in the service of the public, in one of the most distinguished situations a subject could fill; and that on every consideration, it ought to be ascertained whether the only return which he was to receive for his services was censure and infamy. If Mr. Hastings were ultimately to be deemed criminal, let him be proved such, and then be punished; but let condemnation precede punishment, and his punishment not be suspense. To a speedy decision Mr. Hastings was entitled, and for that purpose he should conclude with moving, "that the House be called over upon this day fortnight."

Mr. *Dempster* seconded the motion.

Mr. *Sheridan* stated his reasons why he should give it his negative, being persuaded, notwithstanding the hon. gentleman's determination to bear all the odium and unpopularity of it, that whoever did support it, would find some share of the odium incurred by calling gentlemen back to town, after they had gone into the country and made their arrangements for the summer, fall upon them. He begged leave to justify his absent friend (Mr. Fox), which he would do, he said, by stating what his meaning was, in order to shew that he had not pledged himself to second a motion for a call, unless it could be made appear that the call would be effectual. He repeated that part of Mr. Fox's argument on Friday, in which he had declared, that it would be a most desirable thing to go through the whole of the charges that session, if it were practicable to obtain such an attendance as ought to be present in the discussion of matters of such infinite importance. A word had fallen from the hon. gentleman which required some notice. Perhaps he had used it accidentally, and without meaning to convey any improper insinuation by it. If he had, he would be so good as to say as much. But if he

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really meant it in its ordinary sense, he believed the House would agree with him, that pending an inquiry before parliament into the public conduct of Mr. Hastings, it was not very decent language, nor language that would be endured within those walls, especially after the vote the House had so recently come to upon the subject. The hon. gentleman had said, he stood up in the behalf of a persecuted and accused man. That Mr. Hastings was an accused man was true, but in what was he a persecuted man? He would not endeavour to argue that he was not persecuted, because if the hon. gentleman alluded to the vote on the charge relative to Benares, he sat near several of Mr. Hastings's persecutors, who could much better justify their vote, than it would become him to attempt to do for them. Neither the cause of substantial justice, the reasonable claims of Mr. Hastings, nor the dignity and character of the House, would be better served and satisfied, by going on with the charges without interruption, than by postponing the remainder of them till the next session. On the contrary, he contended that they would all of them be far less satisfied. He observed, that it was necessary not only to have a full attendance, but also that gentlemen should attend with that sort of temper which would qualify them for seriously deliberating on the important facts submitted to their consideration. Did the House imagine, whether the call was enforced or not, that gentlemen would after that day attend in numbers, or with a determination to apply their minds closely to the subject? Was it likely, if they proceeded any farther, that they should divide more than 120 or 150 on any one of the remaining charges? Would any gentleman present say, that it would be right and decent to go on in that manner, with not a third part of the House present? Would it not expose them to the advantage taken already more than once by an hon. major in respect to the resolutions moved by Mr. Dundas so greatly to his own honour in 1782? What had been the hon. major's argument in respect to those resolutions, but that they had been voted in a thin House? If they proceeded therefore with the rest of the charges, they would next session, in all probability, hear that they had been voted in a thin House. The hon. major, on Friday last, had taken a new ground of argument to urge the House to proceed with the remainder of the charges. He had positively declared his belief, that the fate of India depended on finishing them this year, and that declaration he had rested entirely on dark hints and suggestions, as if recent advices had been received from India, which justified such an opinion. Perhaps, as that hon. gentleman was more in the way of knowing the secrets of India than he was, he had received some news that justified him in his assertion. If so, it would be well for him to state it to the House; but, till he made out a case to prove the fact, that the fate of India depended on finishing the charges that session, all insinuation of that kind must go for nothing. For his part, he had made every possible inquiry in order to learn whether any extraordinary news had recently arrived from India; and he could hear of nothing extraordinary, but of the receipt of an extraordinary large diamond, said to have been sent to Mr. Hastings, and presented to his Majesty at an extraordinary and critical period of time. It was also a little extraordinary, that Mr. Hastings should be chosen as the person to present this diamond, after the resolutions of 1782 had reached India; especially if, as had been predicted, they had been translated into Persic and all the languages of the East. With regard to any expectation on the part of Mr. Hastings, or any claim that he could be supposed to have upon the House, he could have none but that the House would continue, as they had begun, solemnly and seriously to investigate his conduct, and after having in due time gone through the charges, come to some ultimate decision upon the whole. Early in the commencement of the session, the Chancellor of the Exchequer had declared, "that it would be exceedingly unbecoming in the House either to continue hearing the charges when a full attendance could not be obtained, or to leave off without first moving a bill to hang up the inquiry, as it were, till the next session, then to be resumed and pursued to its conclusion." At the time of the right hon. gentleman's stating that idea, the hon. major had not offered a word of objection; much less had he said that the fate of India depended on their being gone through this session, or that it would be injustice if they were not. In point of character, Mr. Hastings had no sort of right to complain that he had been injured by the proceedings hitherto, because no person could assert that they were the first arraignments of the character of Mr. Hastings in the House of

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Commons. That gentleman's character and conduct as governor-general of India had been before arraigned in that House. It stood arraigned upon the Journals in the resolutions of 1782, wherein every misdemeanor contained in the charges was generally imputed to that gentleman in the most strong and pointed terms. With regard to the character and dignity of that House, the best way to support both, was to act evenly and consistently. They had hitherto proceeded deliberately, and in full Houses, to discuss and decide upon the charges, and had made a much farther progress than many gentlemen had, at the beginning, imagined it possible for them to do. No delay but what was unavoidable could be imputed to the House, nor could any be imputed to his right hon. friend (Mr. Burke), since the House could not but have observed, that when the witnesses were under examination, his right hon. friend curtailed it as much as possible, and omitted many questions that he intended to have asked, merely to avoid every appearance of a wish to procrastinate. Every possible dispatch had been used; they had proceeded a considerable way, and it had been originally understood, that when they found it difficult to procure full attendances, the business was to be hung up till the next session.

Major *Scott* said, he was so convinced of the gross injustice and oppression which Mr. Hastings would sustain by a delay of six or seven months, and still more of the extreme danger to which our possessions in India would be exposed by a delay, that he could not avoid entering his solemn protest against every attempt to postpone the decision of the present inquiry. The hon. gentleman had observed, that a short delay could not be of very material consequence to Mr. Hastings, since he had long been arraigned, attacked, and censured by that House in resolutions or reports. The fact was undoubtedly true: he had been attacked and defended by all parties in turn, just as parties had changed in that House; but all parties had occasionally held him out to the public as one of their first and most valuable servants. The more he thought upon that subject, the stronger his conviction was, that we risked an empire in India if we dropped the inquiry in the present moment, after the decision of Tuesday se'nnight. He should be very sorry to say any thing in that House which should be prejudicial to his country or the East India Company; but the consequences appeared so palpable, that he was astonished they did not strike every member. Suppose the vote had been upon contracts, or allowances, or any charges of that kind; he should have thought it a very great hardship upon Mr. Hastings, had the House been prorogued, before he had had a full opportunity of being cleared: but there the mischief would have ended. On the contrary, the decision on the Benares business, or rather the half decision, tended to destroy all confidence in India, and to throw every thing into confusion. For how did it stand? A right hon. gentleman brought in a charge, on which he reprobated every step Mr. Hastings took relative to Cheit Sing. This charge was supported by a right hon. gentleman (Mr. Fox), who particularly laboured to prove this part, that under no circumstances could we exact military assistance from Cheit Sing. It was very true that the Chancellor of the exchequer (Mr. Pitt) had overturned all the arguments of the right hon. gentleman, and had taken the charges completely to pieces. But what was the vote? That in the Benares charge there was matter of an impeachable nature; and the hon. gentleman must know that that charge, with the vote of the House upon it, was at this moment on its way to India, not from this country, but from another, which never for a moment lost sight of her interest. And was there a man who could doubt the uses to which it was possible such a charge and such a vote could be turned? He could wish a map of India were always upon the table of that House, that gentlemen might see to what dangers our possessions might be exposed. He was not alarmed by the news from India, but from the measures pursued here, which tended to destroy all government there, and to establish principles which must undo us. Could there be a second opinion amongst men who read the charge, and the vote upon that charge? And did it not tend to make every zemindar in India independent? Feeling as he did upon this subject, he could not help deprecating any delay.

Mr. *Pitt* did not look upon the object of those who opposed the motion as any thing else than the postponement of the proceedings till next session. As to the idea of the hon. mover, that Mr. Hastings had a right to demand a speedy determination of the business, he agreed that he

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was entitled to as speedy a determination as the circumstances of the case would admit of; but he could have no right, nor if he could, would it prove a beneficial right, to a determination, under circumstances which rendered it impossible for the real sense of the House to be understood; which must be the consequence of proceeding at so late a period of the session. As to the consequences in idea, as represented by the hon. major, who, on this occasion, seemed more tinctured with despondency on the subject of Indian affairs than was usual with him, he confessed he could not join with him in his apprehensions of any such consequences. For his own part, he felt, from his own opinion of the question on the subject of Benares, that there might be, and were, grounds on which that question could have been decided, which would not by any means warrant the inference which the hon. major seemed to fear would follow from it. He had voted for the charge; but, notwithstanding his having so voted, he protested against any inference that the executive government of India were not at liberty to demand extraordinary aids from the zemindars on extraordinary emergencies. He protested against any inference, that if such aids were refused, they had a right to punish the delinquency, and enforce obedience by an exorbitant and unreasonable fine. He protested against the inference that Cheit Sing, under the circumstances of the case, had been unjustly or improperly dispossessed of his zemindary. He had voted the article merely on the ground of the exorbitancy of the fine proposed to be inflicted. He could not but think that it was, for many reasons, improper to proceed in the business during the present session, and that the proceedings which had hitherto been had, might be presented, and hung up by a bill for that purpose, that so they might be resumed at the commencement of the next session.

Mr. *Dempster* assigned, as his reasons for seconding the motion, that he considered it as an act of merely common justice to Mr. Hastings, that the charges should be all gone through this session, and he was convinced that they ought to be concluded with all possible dispatch, after the speech of the Chancellor of the Exchequer on Tuesday se'nnight, and more especially after the manner in which the right hon. gentleman had repeated his arguments in the speech which he had just made. Was it to be inferred that a governor general was to be impeached, for having conceived that it was right to levy a fine on a contumacious zemindar, and for going to obtain that fine in the mildest way possible, by putting the zemindar under an arrest, rather than resorting to the more violent means of procuring it, by making war upon him? What an effect must this doctrine have in India upon the other native princes, tributaries to the British government? What would the rajah of Tanjore think of it, whose capital had been sacked, and was now filled with soldiery, and whose country had been taken from him, and a large tribute demanded and exacted to this day? Would not he talk of the wrongs which he had suffered, and, being induced by the conduct of the House in the instance of Cheit Sing, claim and expect retribution? It was true, indeed, that Mr. Hastings in his conduct in India had not always paid the strictest attention to the natural rights of mankind; but he had never violated them but where the interest of the Company, his employers, actually required it, and therefore it was an ill return after all his zeal and all his services, to let him remain in suspense, liable to the injurious constructions which would not fail to be put upon the vote of Tuesday se'nnight.

Mr. *Dundas* begged to remind gentlemen of the propriety of permitting the vote of Tuesday se'nnight to rest till the day of discussion came, free from any speculative construction upon it, and not by the aid of their own imaginations to give it a meaning which might not ultimately appear to have belonged to it. As to the hon. gentleman's ideas of our holding India by dint of power, we certainly did so; and by what other tenure did any sovereign state hold territorities acquired by conquest? As unfortunately the government of our Indian possessions was necessarily despotic, it surely the more behoved that House to take particular care that the government of India was conducted as well as possible; and, for that reason, it was right the inquiry should proceed in the manner, and at the time, most likely to answer the ends of substantial justice. He could assure the House, that so far from the last accounts from India describing the state of our affairs there to be worse than they were a month ago, they stated them to be rather better.

Mr. *Hamilton* persevered in his intention to take the sense of the House on

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his motion: a division accordingly took place, when the numbers were, Yeas, 30; Noes, 99.

Mr. *Burke* declared, that he had adhered to the rule which he had laid down of being in all respects throughout the business bound and governed by the opinion of the House; and therefore he had neither debated nor voted on the question of the call.

It was then agreed that the committee on the articles of impeachment should immediately sit, in order to examine Messrs. Williams and Middleton, that the oral evidence might be completed before the rising of parliament. The House accordingly resolved itself into a committee, in which these gentlemen were examined.

Debate in the Commons on the East India Company's Relief Bill.] June 9. The House having resolved itself into a committee to take into consideration the petition of the East India Company, to be allowed to raise money by a sale of annuities, and by increasing their capital stock,

Mr. *Pitt* observed, that he should avoid going into any detail on the subject, unless called upon by gentlemen to enter into an explanation on any particular parts of it. The estimate which had formerly been delivered in by the Company, was found to fall considerably short of the amount necessary for carrying on their trade. This did not arise from any want of accuracy in forming that estimate, but from a material alteration in the circumstances of the Company, which had since taken place. Their trade had been of late considerably increased; and it was obvious that in proportion to an increase of trade, an increase of capital became indispensably necessary. The increase of the Company's sales of tea was from about six millions of pounds anually, its former amount, to fourteen millions; and there was besides an increase on some other articles of their dealing. This increase, in a certain degree, proceeded from an extension of their markets; but he need not inform the committee, that the principal cause of it was, the operation of the Commutation Act. That Act had considerably promoted the trade of the Company, and in so doing, had given rise to the necessity of an increased capital; but it had also in some degree tended to forestall that necessity, for by increasing their trade, it had considerably added to the gross amount of their profits; and by preventing the consumption of a contraband commodity, had given a vent to a great quantity of tea which would otherwise have lain by in the Company's warehouses perhaps for many years to come. Still, notwithstanding the great and extraordinary receipt of each, an addition of capital was requisite for making investments adequate to the increased state of their trade: this arose from certain very heavy expenses under which the Company of late had laboured, chiefly owing to the extraordinary charges attending the winding-up of the late war. The Company did not come to Parliament to ask for the aid of the public in raising the money of which they stood in need, but merely to obtain leave to make use of their own credit for that purpose, which at present they were restrained from doing by the provisions of the laws now subsisting. After enumerating the several objects for which the money to be raised was wanted, as the discharge of certain debts due by the Company to the public, part at home and part in India; the purchase of silver for exportation, and the completing their commercial investments, which in all would amount to 2,000,000*l.*; he concluded by moving, "1. That the East India Company be enabled to raise a sum of money, for the purposes mentioned in their petition, by the sale of 36,226*l.* 16*s.* being an annuity due to them from the public, in consideration of 1,207,559*l.* 15*s.* part of 4,200,000*l.* advanced by the said Company to the public under the authority of several acts of parliament. 2. That the said Company be enabled to raise a further sum, by adding 800,000*l.* capital stock to their present capital of 3,200,000*l.* so as to make their whole capital stock, in future, four millions; and that such addition be made by opening a subscription to the amount of the said 800,000*l.* capital stock, at the rate of 160*l.* for every 100*l.* of such capital stock, or at such other rate as the court of directors of the said Company, with the approbation of the commissioners of the Treasury, shall direct; and that the subscribers to the same be declared entitled to the like profits, benefits, and privileges, in respect thereof, as the proprietors of East India stock are, or may be, entitled to in respect of their present stock."

Mr. *Sheridan* said, that the necessity for the present application must have been known early in the session, and that the directors had no manner of occasion to have waited under the expectation of re-

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ceiving additional information by the last ships from India. He entered into an examination of several parts of the report of the situation of the Company's affairs which had been laid on the table. He asserted, that the calculations were mostly erroneous; the deductions false, and the result of the whole of such as he had touched upon, consequently fallacious.

After a short conversation, the Resolutions were agreed to, reported to the House, and a Bill ordered to be brought in thereon.

June 26. The report of the Bill "to enable the East India Company to raise money by a sale of annuities, and by increasing their capital stock" being brought up, the amendments were read and agreed to, after which,

Mr. *Sheridan* said, that the more he examined the subject the more reason he had to complain of its having been delayed to so late a period of the session; a delay which he had no manner of doubt was contrived on purpose to prevent discussion, and elude the detection of those fallacies on which the Bill was grounded. In order to shew this, he read extracts from the accounts in his hands, particularly from the Bengal letter to the directors, whence it appeared that no additional information on the leading points had been received from Bengal since the 1st of January; and consequently, that most of the statements in the directors' report, were mere assumptions. He next entered into an investigation of the two great questions in dispute between him and Mr. Dundas, viz. the quantity or amount of the remittance to China, furnished from Bengal, and the amount of the surplus revenues of Bengal. He referred to a variety of statements in different accounts before the House as evidence, that although it had been contended that India furnished a remittance to China to the amount of 275,000*l.*, that not more than 60 or 70,000*l.* appeared to have been furnished. He endeavoured to prove that 1,400,000*l.* was the full amount of the surplus of the revenue which could be expected from Bengal to go towards the investment, and towards the relief of the other presidencies. He quoted a pamphlet, which came from the pen of a person rather a favourite authority with Mr. Dundas, and upon whose argument he was himself inclined to rely in the particulars to which it referred, although he did not agree with him in many others. The pamphlet in question was written by Mr. Hastings, and suppressed by him upon better recollection. The extract stated, that the drains of Bengal ought always to be allowed for, and that the utmost surplus revenue that could be expected from Bengal was a crore of rupees, or one million of money. Mr. Sheridan dwelt on this point, and opposed the authority of Mr. Hastings respecting it to the arguments used by Mr. Pitt and Mr. Dundas upon the subject in former debates. He also said, that he expected to hear no more from the former of these gentlemen respecting the 275,000*l.* sent from India to China, unless he meant positively to contradict the papers which had been printed. He argued upon the immense quantity of bills drawn from India upon the Company at home, declaring, that in ten years time, bills to the amount of twelve millions would be due. He asked, whether the Lords of the Treasury, in permitting bills to so large an amount, and which were to be outstanding till so distant a period, did not pledge that House to renew the Company's charter, when it should next expire? He reasoned upon the probable effect of such a load of debt, and contended that it must prove ruinous to the Company. He took notice of the declaration made by Mr. Dundas in a late debate, that the public were not pledged as a security for the money borrowed by the Company, and said, that if the fact were so, it could not be too well understood; he should therefore move the insertion of the following clause: "That as nothing in any former Act relating to the affairs of the East India Company, so nothing in this Act contained, shall be construed to extend to pledge the public faith, or in any respect to make the public responsible for the present or future claims of any of the creditors of the Company, or in any way to bind the public to the renewal of the charter of the said Company."

Mr. *Dundas* said, he had, on a former day, declared himself ready to answer any objection made to the Bill, and to justify both its principles and its provisions. He was ready to do so still, but he must hear the objections stated before he could answer them. He had listened with a good deal of attention to the hon. gentleman, and though he did not expect to be able to afford him satisfaction upon all the points to which he had alluded, he would endeavour to do so; but, as an hon. baronet had

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some objections to state to the principle of the Bill, he should be glad to know what those objections were, as it would, perhaps, save much time, if he were in one speech to answer all objections.

Sir *Grey Cooper* went into a detail of the history of the East India Company, tracing it from its origin down to the present period, and stating the amount of the joint stock or capital at the era of incorporation, and upon each renewal of its charter; whence it appeared, that the Company's capital was originally a few hundred thousand pounds only, that it doubled it more than twice or thrice, till at last it possessed its present capital stock of 3,200,000*l.* Sir Grey stated the loan to the public of four millions, and suggested, that it was probable that loan was made by Government in order to give the proprietors of India stock a collateral security, by their having a claim upon the public for as much as they had subscribed towards their capital. Sir Grey endeavoured to prove, that the Company's being, in the manner the Bill warranted, empowered to admit not only their own proprietors but all the world to subscribe at 160 per cent. to the new stock, were authorized, as it were, to put their credit up to public sale. He described the precedent as a dangerous departure from the particular conditions of incorporation, and pointed out the different conduct of other great incorporated companies, particularly the Company of the Bank, who had uniformly adhered to the conditions of their charter.

Mr. *Dundas* went through the whole detail of the state of the affairs of the Company in Bengal. He set out with denying that he had waited for more news from India than he was in possession of before he brought in the Bill. He admitted that he knew as much of the state of the affairs in Bengal six months ago as he knew at that hour. Indeed it was impossible that the reductions ordered by Government in the establishments of Bengal, and from which so much was to be expected, should have taken place till about the time that the measure proposed by the Bill was to be brought into parliament, and therefore it would have been ridiculous in him to have said he waited to hear their effect before he offered it. He had waited merely till the directors had thought fit to apply. He confessed that he had entertained an expectation of a more severe and minute animadversion on the principles on which the Bill was founded, than he had heard. It was easy to prove that the hon. gentleman was much mistaken in his notions of the remittance furnished for China, from India, and also in his ideas of the probable surplus of the revenues of Bengal. He entered into a detailed discussion of the former, in order to prove that it amounted to 275,000*l.* He denied that he had ever said that the remittance was made in specie. Undoubtedly it was not. It was made in a manner beneficial to the interests of the Company, because it consisted in a great measure of an export of opium and of cotton, for which the money was paid into the Company's treasury in China. He stated that in proportion as the commerce to Canton increased, in like proportion would the export of opium and cotton increase; and inferred that full 275,000*l.* would be remitted from India. He next proceeded to the other head, viz. the surplus of the Bengal revenues, and declared it to be his opinion, that comparing the effect of the reduction of the establishments with the former establishments, and the increase of the revenues naturally to be expected, and all other circumstances of India taken into consideration, the surplus would amount to eighteen lacks or 1,800,000*l.* But this opinion, though it was one which after a minute consideration of the whole of the case he had made up his mind to, was not an opinion to which he had pledged himself, or chiefly relied on in the argument upon which he should rest the justification of the present Bill. He would allow a third of this sum to be taken away by contingencies, and would leave no more than 1,200,000*l.* for the investments to be sent home. He stated a variety of particulars to be provided for, such as the half-pay of the Company's servants discharged, &c.; and said, in answer to that part of the speech of Mr. Sheridan, in which he had stated the extracts from Mr. Hastings's pamphlet, that he had no difficulty in admitting that Mr. Hastings was a favourite authority with him, because he was, generally speaking, an authority to be rested on; but in the particular which the hon. gentleman found it convenient to hold up as authentic, although in almost every other particular he professed to dispute the credit due to Mr. Hastings, he must beg leave to differ, and that without throwing the smallest imputation upon the argument urged by Mr. Hastings in the pamphlet

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in question, and for this reason; the whole of Mr. Hastings's argument, when he stated that a crore of rupees would be the utmost which could be expected to be the tribute from Bengal, the drains of that kingdom properly allowed for, was grounded on the actual expense of the Bengal establishments at that time. The reductions since ordered from home had been so important and effectual, that they had totally altered the argument, and made the case widely different. Mr. Hastings had shewn his good sense, in allowing the drains Bengal was liable to sustain; he would be a shallow politician indeed, who did not make that allowance, and it was with a due attention to that necessary consideration, that he desired to be understood as arguing all along. From this remark, Mr. Dundas proceeded to evince the sound policy of permitting the Company's servants in India to transmit their fortunes home to England, through the medium of investments of the Company's ships, but for which they took bills on the Company at home. He stated that the practice had been for the ships of other European powers, our rivals in the commerce of India, to sail for the Ganges, that they trusted for the money to purchase an investment solely to the Company's servants wishing to send their fortunes home to Europe, and that they thus found a British capital ready for them in India. He urged the ruinous tendency of this practice, and more especially since the means which had been lately adopted for confining the tea trade to England to the East India Company. He observed, that it was our essential interest to throw difficulties in the way of our rivals, and to take into our own hands the advantages we had long suffered them to enjoy: that by permitting the servants of the Company in India to assist the government there with their fortunes, we opened a new source of advantage and accommodation to them and to ourselves. The hon. gentleman had talked of the Treasury-board's allowing bills from India to so large an amount to be drawn on the Company at home, and had said they might have sent them back, if they chose it. The Lords of the Treasury had the power, no doubt; but they would have acted in a most foolish, unjust, and impolitic manner, had they done so. Would any gentleman seriously contend, that after having made use of the fortunes of the Company's servants in India, after having purchased investments with their money, and derived a considerable degree of profit from the sale of those investments here at home, it would be just in the first instance, or wise at all to return their bills, and refer them back for payment in India? Surely no man would stand up and maintain so unfair an argument. Gentlemen talked of the enormous debt accruing upon the Company at home, and said, that in ten years twelve millions would be owing. Was that the fact? Most undoubtedly it was not. Instead of twelve millions of debt, a new capital to the amount of twelve millions was forming. As fast as it accrued, so much in proportion flowed into the Company's treasury at home, and the means of discharging the debt uniformly accompanied its accumulation. Having avowed himself a zealous friend to this system, declaring that he never would consent that the Company should call itself a wealthy and flourishing Company at home, and a poor and distressed Company in India, he begged leave to appeal to Mr. Hussey, who had taken pains to make himself master of the Company's affairs, and had been on various committees, and to desire him to point out a better mode of relieving Bengal; and declared that he expected gentlemen who objected to the system laid down, would specifically state a more practicable one.—He next entered into an examination of the principles and conditions on which the Company had been incorporated, tracing its existence to Queen Elizabeth's time, and stating the union of the two Companies, which had at one time existed, to have taken place in 1699, or thereabouts. He denied that the debt of the public to the Company, was intended to be any sort of collateral security to the Company's stock, and said, that the arguments that the two debts (that of the Company to their subscribers, and that of the public to the Company), were correspondent, had any sort of connexion, or would run together. He mentioned that the terms were optional. The bond-holders might either keep their bonds or subscribe to the annuity. He said that it was true that India, greatly exhausted by the late ruinous war, required, as this country did, to be managed with every possible care and attention; but then, in proportion, India had less difficulties to struggle with than Great Britain. He hoped to see India with a powerful army (on which her

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existence depended), and a reduced and economical civil government; with her revenues increased, her expenses moderate, her investments large, her commerce flourishing. That India would yet prove a most valuable British possession, that her interest was deeply and nearly connected with that of this country, was undeniable. In whichever part of the British dominion the string cracked, the convulsion must be mutual; the stroke, be it given where it might, would be felt in both quarters of the globe.

Mr. *Francis* said, that with regard to the flattering ideas suggested by the right hon. gentleman, he had before heard speculations, promises, and expectations of the same sort displayed with the same confidence; and as often as they had been stated, they had failed of being realized, and the very reverse of the picture been the actual exhibition. The right hon. gentleman had taken pains to shew that no specie was sent out from India to China, and had talked a good deal about opium. Did not the right hon. gentleman know that opium was contraband in China? Supposing, therefore, that enough could be run into China, did it become a great Company to turn smugglers, and by so doing endanger the total loss of their commerce with China? But the right hon. gentleman had hinted at another commodity which he said the Company exported to China, and that was cotton. Was it possible that the right hon. gentleman could seemingly contend, that it was right to export cotton, a raw material of our Bengal manufacture, a material which we ourselves imported into Bengal, at considerable expense and trouble? Far better would it be to export silver wherever it could be had! Another matter upon which the right hon. gentleman had dwelt, had been the reduction of our establishments in Bengal, which were ordered from home. By the state of affairs in Bengal in 1784, there appeared to be a deficiency of 16½ lacks, or 1,650,000*l.*, which deficiency, according to the right hon. gentleman's argument, was to be converted by a glorious reduction into a surplus of 1,800,000*l.*, so that between the one and the other there was a difference of three millions. If the right hon. gentleman was founded in his assertion, what must have been the establishments which could have admitted of such a reduction? Let those who support the late governor general, consider what sort of argument this extraordinary circumstance furnished respecting that gentleman's conduct! Mr. Francis then spoke of the tea trade. The tea purchased of European Companies on the continent in 1785 and 1786, amounted to 1,825,163*l.* which was so much English capital furnished by the British Government to the rivals in trade of the British East India Company, to whom, by the Commutation Act, Parliament had professed to give an exclusive monopoly of the tea import trade. With this money our European rivals would go again to China, and continue that trade to which we had weakly endeavoured to put a stop. After urging this, Mr. Francis stated the contradiction between the directors' former estimates of February and May, 1784, and the present, under three heads. 1st. That they had reckoned upon 250,000*l.* to be remitted from Bengal to China; whereas nothing has been sent, and nothing could be sent without utter destruction to Bengal. 2dly, That in the estimates of 1784, they had asserted that there would be a balance of cash in their Treasury on the 1st of March 1787, and the three subsequent years, as follows, viz. March 1, 1787, 611,998*l.*; 1778, 757,731*l.*; 1789, 488,526*l.*; 1790, 362,144*l.* Whereas their present estimate stated that, at the same periods respectively, the balance would be against their Treasury, as follows: 1st. 927,524*l.*; 2d. 744,702*l.*; 3d. 1,704,522*l.*; 4th. 1,533,835*l.*—3dly, That in the estimates of 1784, they had stated the bills to be drawn upon them in the same four years at 3,802,477*l.*, whereas the bills which would really become due in that period, would amount, with interest thereon, to considerably more than six millions; the excess, by their present account, beyond their first calculation, was no less than 2,691,637*l.* Such monstrous inaccuracy was a sufficient ground of distrust. But had they even now stated the real situation of their affairs? They had not; and he would assign his reasons for thinking so. Mr. Francis then asserted the following facts, drawn from authentic documents, or unquestionable information: that the Company's bonded debt in India, by the last accounts, amounted to 5,442,509*l.*; arrears due, 3,797,290*l.*; orders unpaid in Bengal only, 1,400,000*l.* That some articles were not stated in this account, which must be considerable, such as arrears to the King's troops, and orders unpaid at Fort St. George and Bombay. On the

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whole he was perfectly sure that the Company's debt in India at this day, must exceed twelve millions sterling. That in the concluding part of the Report from the committee of accounts, there was a most extraordinary fallacy, viz. that whether the mode proposed by the directors for paying their Indian bond debt took place or not, that is, whether bills to the amount of six millions more should be drawn upon them or not, it would not make any important variation in the state of the Company's affairs, with respect to the sum wanted in England for the ordinary currency. So extraordinary a proposition required a clear explanation. All they say is, that if the creditors prefer being paid in India, it will lessen the funds allotted to the investment; but if they consent to be paid in England, the amount will be brought home in investments, out of which the bills are to be paid. If this state of the case were true, it would be bad enough, since then the investment would be brought home solely for the creditors, not for the Company. But then, the money applicable to the discharge of the bonded debt would exist somewhere. The proposition supposed the money to exist in India, and that all the difference was, whether the creditors should receive it there, or allow it to be laid out in an investment, and take the bills on the Company. Whereas the truth and fact were, that so far from there being a *single* rupee of surplus in Bengal, they had not wherewithal to pay their current expenses; every department of government was enormously in arrear; the whole civil service was paid with paper; and, so far from having a rupee to apply to the discharge of principal debt, they had opened their Treasury for money, for bills on the directors, in order to provide for the annual interest on the Company's bonds, and on the other paper entitled to interest. Now suppose the Indian creditors were to pay in their bonds, and demand bills on the directors to the amount of six millions sterling: they might do so, and the bills must be granted. The directors could not contradict their own proposal, or refuse to accept bills, which they themselves had permitted to be drawn. What would the situation of the Company be then? Why, in addition to all their present acknowledged difficulties, they would have six millions more to pay in England, without a single shilling of additional assets; and considering how the credit of the bonds was depreciated in India, it was by no means unlikely that this event might happen. Mr. Francis then made some remarks on the ruined state of the Company's credit in India, where their bonds were at 30 per cent. and their Treasury notes at 18 per cent. discount by the last advices: that in this state of discredit, the governor general and council had resolved that the whole civil service, (except the salaries of 300 rupees a month) should be paid by a farther issue of paper, which of course must increase the discount on the existing paper, and sink it to nothing. Upon the whole he was of opinion that the relief was inadequate to the distress, would do the Company no good, and would be entirely thrown away.

Mr. *Hussey* owned that it was true that he had taken pains to make himself acquainted with the affairs of the Company; and though he was called on to state specifically a better mode of managing with regard to the investments in India, if he objected to them, he would do his duty, and content himself with stating what his objections were to the system proposed, leaving it to others to substitute methods or systems. He had understood, that instead of encouraging the servants in India to send home their fortunes in investments, a stop was to be put to the practice: for what did that go to? to the length of saying, that during a war, the Company must depend on their servants in India for money to furnish out those investments. Surely that was a wild supposition. He mentioned the commutation tax, and said, that pledging themselves to the principle of that measure, was undoubtedly pledging themselves to a great mode of relief for the East India Company.

Mr. *W. W. Grenville* felt himself justified in alluding to what he termed a gross fallacy in the argument of an hon. gentleman (Mr. Francis) who observed, that according to a former statement of the affairs of Bengal, there had been a deficiency of 16½ lacks or 1,650,000*l.*, and that this deficiency was now converted into a surplus of 1,800,000*l.* which together amounted to more than three millions. Nothing could be more egregious than this attempt to deceive. In the 1,650,000*l.* the hon. gentleman knew the unfunded debt of Bengal was included, and therefore it was just as unfair to state that as a part of the deficiency on the balance of last year, as it

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would have been for any gentleman at the end of the war, in comparing the annual income of Great Britain, with its expenditure to have taken in the whole of the unfunded debt at that time, and in stating the balance of the one against the other, to have included the 36 millions of unfunded debt as a part of the deficiency of the year's income. This was an unworthy attempt to mislead the House; nor was the hon. gentleman less wanting in respect both to the House and to himself, when he glanced with such ungovernable severity at the conduct of Mr. Hastings.

Major *Scott* said, he should beg leave to offer a few observations upon what had fallen from an hon. gentleman relative to the resources of Bengal, and the possibility of its affording assistance to the China investment. The hon. gentleman had stated that opium was a prohibited commodity in China, and therefore unworthy as well as dangerous for the Company to trade in. Doubtless it was; but he desired the hon. gentleman to recollect that though there was a law against it in China, yet that law was hourly broken and publicly in the middle of the day. Opium was not introduced into China as prohibited goods are into this country by smugglers, but in the face of the people, and with the knowledge of the government. The hon. gentleman knew very well that when it was sent from Bengal in 1781 by the Company, it was not an act of choice but absolute necessity. There was no sale for opium in Calcutta. The navigation of the Indian seas was dangerous, and the supercargoes at Canton wanted a supply to load their ships. The hon. gentleman knew that the opium produced in Bahar and Purnia, was very considerable, had sold last year for near 20 lacks of rupees, and would produce in China the 275,000*l.* wanted for the Company; and the hon. gentleman also knew, that the opium was not sent to China directly, but disposed of in the Eastern islands, and tin, pepper, many other articles, and dollars, all which sold to a profit in China, received in return. The hon. gentleman knew also that cotton was not sent from Bengal to China, but from Bombay, Surat, and Guzzurat, and that Bengal itself was supplied with cotton from those places, and from the upper parts of India.—The hon. gentleman had talked of the amount of the bond debts in India. The major said that the bonded debt of Bengal was too inconsiderable to be mentioned. It did not in fact amount to more than 165 lacks of rupees, and the revenues were 450 lacks; therefore such a charge upon such a revenue was nothing. In fact it was only paying 12 lacks per annum till they could pay it off conveniently; and this they must do, for he did not believe a rupee of the Bengal bonded debt would be subscribed to the remittance hence, because he conceived the whole of it almost to be the property of natives. As to the Bombay debt, which was the heavy load upon the Company, that he believed to be the property of English gentlemen, and that it would all be subscribed; much of it he conceived belonged to gentlemen now in England, and as Bombay had neither revenues nor resources, it must be paid in England. But, the major said, if the treating paper in Bengal was subscribed, and they were left with only their bond debt, all difficulties would be at an end, provided the peace continued, for on that every thing depended. Once pay off ten lacks of the Bengal bond debt, and the bonds would bear a premium. The hon. gentleman might recollect that when Mr. Hastings arrived in Bengal, the bond debt was 126 lacks, and they bore a heavy discount; but the moment he began to pay off, credit was completely restored, and so it would be again. As to the differences between the hon. gentleman and himself, in their statements, they merely amounted to this: the hon. gentleman would not allow that peace was in prospect; he, (the major) on the other hand, believed it would have been concluded some months earlier than it actually was—of course there was the heavy expense of two great armies, one at Madras, another in Guzzurat, to be borne some time longer than he had calculated; but as the revenues and resources of Bengal had increased even during the war, all there would go well, if we continued in peace for a few years. That the distress for circulating specie in Bengal was very great he admitted; but he spoke in reply to the hon. gentleman, who could well account for it. It appeared from papers on the table, that 52 lacks had been sent away between May and December, 1785, and in January, either 12 or 15 lacks were sent at one time to Madras, when their wants were very urgent. The hon. gentleman knew the effect such an exportation of specie had upon the natives of Calcutta, who were in the habit of hoarding their money; but

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he was confident this would bring it out again. As to the trade of Bengal, it had much improved, and was capable of still greater extension. The trade to the Gulfs would revive upon the peace, and a very advantageous trade with Thibet would be opened; nay, he could with pleasure inform the House, that Thibet could afford in return for the commodities of Bengal, what was very much wanted, a plentiful supply of pure virgin gold, for he had seen a specimen of it which covered a letter that Mr. Hastings had received by the King George Indiaman from the Grand Lama, a few days ago; and, having mentioned the curiosities of Thibet, he would, with the permission of the House, say a very few words relative to a diamond that had lately made so much noise in town; and he trusted the House would permit him to do this, because he had been calumniated very much for a few days past, in consequence of what an hon. gentleman (Mr. Sheridan) had dropped a few evenings ago, without any serious design, he believed: but what appeared then so farcical, was now become very serious; and he wished to retrieve his character from the imputation under which it laid, owing to the extraordinary time, as an hon. gentleman had stated it, when the letter and its contents were delivered. The major said, that on the 2nd of June, when he was in his place in the House, an honourable member, whose name he could not recollect, was so good as to deliver him the following letter:

2d June, 4 o'clock.

"My dear Scott; I have just received a packet, of such apparent importance as alarms me for the consequences of keeping it in my possession; and I therefore give you this unseasonable trouble, to request that you will take the earliest possible means to communicate this information to lord Sydney, with the following circumstances relating to it, which are all I yet know concerning it.—The packet was delivered to me by Mr. Blair, brother-in-law to Mr. Richard Johnson, and I have given him my receipt for it. It was directed to me; I opened it and found it to contain an English endorsed paper, sealed, which I have not opened, a letter from the nabob Nizam Ali Cawn to the King, a letter from the same nabob to myself, damaged, and scarce legible, if legible; and a small bulse sealed with three (or I believe four) seals, bearing the Nabob's principal title. These are all much soiled with the sea water, having been originally sent on board the Hinchinbrooke, and recovered from the wreck. Besides the above, there were a letter of a more recent date, from the same Nabob to me, and other English papers.—I guess the purport of the effaced letter to be a commission to me to deliver the letter to the King, and most probably the bulse with it, the contents of which I have not a clue to conjecture. Supposing that it may contain something of value, and in that case of no small value, I think it neither consistent with my interest or credit to keep it an hour longer in my custody than absolute necessity may require, and therefore request that I may be relieved from the charge; and that for that purpose you will be so good as to endeavour to obtain lord Sydney's permission that you may deliver the packet with all its contents to him; concluding, that while the present inquiry lasts, his lordship would prefer that mode to my own personal attendance. Your affectionate,

"W. HASTINGS."

As this was the second day's debate on the Rohilla war, and an hon. gentleman (Mr. Francis) was just rising to speak—he wrote upon a slip of paper to Mr. Hastings, that he would take the first opportunity to speak to lord Sydney. The House might recollect that the debate lasted till the morning, and then he was more disposed to go to sleep, than to wait upon the noble lord. When he saw Mr. Hastings in the evening, he told him he should be certain of seeing lord Sydney at the birth-day on Monday, and would speak to him; but not seeing him, or not thinking of it at the time, that day passed over; and he could assure the House upon his honour, that in the course of that week Mr. Hastings begged him, not less than five or six times, to apply to lord Sydney, expressing great uneasiness at the letter being in his possession, and entreating him to take the letter and bulse away with him, which the Major declined to do, from an apprehension of being robbed of them. He told Mr. Hastings, that on the following Monday he should be certain of meeting with lord Sydney, and this he said to him the latter end of the week. On Monday he did see his lordship in the House of Lords, who appointed the following morning to receive them, and major Scott said he waited upon him

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on Tuesday morning the 13th. He could declare upon his honour to the House, that the delay of the delivery between the 2d of June, when Mr. Hastings received them, and the 13th when major Scott delivered them, was imputable to him (the Major) alone; that he was very much engaged in the week; that the House of Peers did not meet all the week; and he never saw lord Sydney till Monday the 12th of June, not conceiving it a matter of particular importance whether there was a delay of a few days or not; nor could he now conceive what inference could be drawn from the time and mode of delivery, or what the hon. gentleman (Mr. Sheridan) had meant, when he talked of the extraordinary circumstances that attended the delivery of it. He had also seen it stated that Mr. Blair delivered this packet to Mr. Hastings on the 26th of May; he was therefore induced to be very particular in his inquiries as to that fact, and he found that the letter, &c. was brought to England by the Rodney, by major Maclary, a passenger in that ship; and he had been able from Mr. Paxton to fix the precise time of the Major's arrival in London, which was the 29th of May. Mr. Paxton said the packet remained some days in his parlour—that major Maclary had told him, it contained, as Mr. Johnson had informed him in Calcutta, a valuable diamond; and on this account Mr. Paxton said, he had advised major Maclary to deliver it himself to Mr. Blair, instead of sending it by his servant, and to get a receipt for it, which he did either on the 1st or 2d of June; but that there might remain no doubt as to this point, major Scott said, he went into the country the preceding day, to Mr. Hastings, who kept a regular account of every daily occurrence that struck him as worth minuting down, and from his book he copied the following words:—"London, 2d June, 1786. At two P. M. received from Mr. Blair, a packet from Richard Johnson, containing letters from Nizam Ali Cawn, and other papers, mostly recovered from the Hinchinbrooke; one to the King, with a bulse; contents unknown. Sent a note to major Scott to apprize lord Sydney, and to desire that he might deliver them to his lordship."—Having thus stated all the circumstances of an affair which had been grossly misrepresented, he begged leave to say, that if there was a blamable delay in delivering this packet to lord Sydney, it rested solely with him—that he delivered it publicly, not as a matter of secresy, or to be concealed; for he did conceive it to be of infinite importance to the prosperity of this country, as connected with India, that Nizam Ali Cawn, the first prince in point of family in Hindostan, and of great power and weight, who had formerly been so hostile to our nation, and so connected with France, should, for the first time, seek a connexion with us, and that he should have addressed a letter to the Sovereign. With regard to the mode of doing it, it was highly respectful on the part of Nizam Ali Cawn, being the invariable mode in which an inferior addresses a superior—nor could there be a man acquainted with the established customs of Hindostan, who would have supposed he could have commenced a correspondence in any other manner. With respect to the contents of the bulse, the Major declared upon his honour he was utterly ignorant of them, but he was convinced it had never been opened after they left Hyderabad, as it was sealed with the Nizam's seal when he delivered it to lord Sydney.

Mr. *Dempster* complimented Mr. Dundas on the information which he had laid before the House, observing that it proved the success of his study to understand the affairs of India. He reasoned against the tea trade, as circumstanced according to the right hon. gentleman's argument. If we were to carry on a losing trade, nationally considered, with regard to the balance of exports and imports, at the expense of a large export of bullion, never to return to the country, far better would it be to pass a bill, to prevent the importation of a single pound of tea more. He compared the state of India and Great Britain, in respect to the public debt, and said India was most happily circumstanced upon a comparative view of the two kingdoms. Her debt was not more than three years purchase of her revenue. The case with us was far different. This was one proof of the merit of the late governor-general, who, though in some few particulars he might not have acted precisely as the rigid rules of right directed, and as cold caution would have proceeded, had established his character as a good general economist, an able financier, a discreet manager of the revenue, an acute statesman, a vigorous governor-general, and a zealous friend to the interests of his employers.

Mr. *Fox* hoped that the House agreed

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with him as to the principle of the Commutation tax. If it should prove that they did not, he must then declare that he had a strong objection indeed to the present Bill. What he understood to be the principle of the Commutation tax was this: to confine the import of tea into England to the Company, and to secure to them that monopoly, but to avoid encouraging a larger consumption of tea in England than had been usual before. He would not trouble the House with any arguments at that time, upon the extreme necessity, that the House should not be pledged to support the Company in an extension of their tea trade, over and above their monopoly of the import of the whole of the quantity usually consumed in England, previous to the passing of the Commutation tax.

Mr. *Pitt* agreed that the principle of the Commutation Act was to secure to the Company the sale of all the tea consumed in England; and also to raise as great a revenue upon tea, as was consistent with the plan of shutting out smugglers, and all other competitors: but whether the increase of the consumption of tea ought to be deemed an evil or not, would depend on a variety of collateral considerations. If it should be found that the demand for silver, with which tea was purchased, should increase, it should be inquired whether the demand for our manufactures with which the silver itself was purchased, did not increase also. In that case, the balance would still be on the side of this country; and provided the demand for manufactures and other exports of Great Britain kept pace with the increased demand for silver, for carrying on the tea trade, the increase of the consumption of tea ought not to be considered as an evil.

The clause moved by Mr. Sheridan was negatived without a division.

Debate in the Lords on the Wine Excise Bill.] June 26. On the order of the day for the third reading of the Wine Excise Bill,

The Earl of *Carlisle* reprobated the principle of the Bill, contending that it was pregnant with the most alarming consequences to the liberty of the subject. He beseeched their lordships to examine the result, as well as the necessity, and to weigh in their minds whether the evil complained of was not much less than the remedy proposed. All increase of the excise laws had been held in the highest degree of detestation by every man who respected the constitution of this country; and hence it was but a natural effect that the present Bill should cause a general and a very just alarm in the minds of the people. Indeed, they already had reason to be jealous of their privileges under the present system of government; they found the rights of their ancestors daily encroached upon; and every hour presented them with new plans to invade the best charter which a country ever enjoyed—the right of trial by jury. Pretences of suppressing evils (the common, hackneyed excuse for such innovations) were all that Government and their adherents had to support their approaches to this most unconstitutional system, which he should now oppose, and which he trusted the spirit of Englishmen would yet be able to repel. The arguments offered by those who supported the Bill were, the necessity of increasing the revenue without laying additional burthens upon the subject: but when any man of common sense came to examine the contents of that Bill, he would find no other motive but a multiplication of the patronage of the Crown by an enormous and sudden increase of excise officers. Was the real benefit of the revenue the object of the Bill, it would have struck at the root of the evil at once, by a duty upon the articles which decreased the importation, and not by an excise upon the wines. The liquor which adulterated the produce of Oporto and Spain, was what in this country came under the denomination of sweets, and without which it was impossible to make any composition resembling, either in taste or colour, what is known in this country by the appellation of Port wine. He was not wine-merchant enough to prove this, by the process of making and mixing, and therefore he had to lament that the rules of the House were found to be against hearing those who only could have made the matter evident to their lordships in all its particulars. It was certain that a visible decrease appeared upon the face of the Custom-house books, in the duties upon wine; but it was equally apparent, that this decrease was not entirely owing to the present mode of mixing sweets with the juice of the grape. In former days the people drank much more than they now do; and wine-taverns were much more frequented than at present. The arguments which chiefly met the Bill, were its

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oppression, and unconstitutional tendency to effect that which could be done without any such evils to be apprehended. A tax upon the sweets would answer all, nay more than the present Bill could ever perform. Hence it was evident that a multiplication of the excise laws, and an additional influence to government, by an increase of excisemen, were the main objects. The increase, when duly considered, was of a most alarming nature. It was not, as stated in another House, an increase of 160 officers; but of nearly 2,000. This was easily calculated. There were about 700 wholesale dealers, and about 10,000 retailers, who would all be affected by this Bill. To each of the principal merchants there must be one exciseman. These would make 700; and, upon an average, among the rest, there could not be less than 1,300. Hence it was clear, that 2,000 excisemen, armed with the most arbitrary, unconstitutional powers, were saddled upon the public, to effect that which could most evidently be done without their assistance. As to laying a duty upon sweets, it was nothing more than an additional impost upon raisins, a foreign commodity, and, in a great measure, a luxury. Upon the whole, such weighty reasons appeared for not extending the excise laws, and for preventing the present system of diminishing the right of trial by jury, that he should oppose the present Bill passing into a law.

Viscount *Townshend* revered the principles of the constitution as much as any man; but he saw such an absolute necessity for endeavouring to increase the revenue, by preventing adulteration and smuggling, that he should give his hearty concurrence to the Bill. The manufacture of Port in this country had arisen to such a pitch, that there was no such thing as a drop of good wine to be had at any tavern, and scarcely at any merchant's cellar. This had induced him to import his own wine; which if he did not, he should be induced to countenance the smuggler, by endeavouring to have it that way; for there was not any safety in drinking the wretched trash vended under the denomination of Portugal wines. He had been in Portugal, and he could assure their lordships from connexions which he had there, that the utmost care was taken by the government in that country to have the best sent here; but that from the quantity of orders sent over, to have particular portions of brandy put to each hogshead, antecedent to its exportation, they discovered that kind of adulteration to be for the purposes of intermixing it with the home-made wines of England, and thereby giving not only a bad character to the vintages of Oporto, but actually perverting a most wholesome, into a most destructive liquor. The experiment, therefore, seemed to him to have in view a benefit to the public health, as well as to the public purse; and as an amendment in the wine duty was long looked for, he was happy to see it come at last.

Lord *Loughborough* endeavoured to prove, that where the decrease in the duty on wines appeared, that decrease was owing in some measure to the increase of sweets. He went back as far as the year 1736, and averaged the duties for each ten years to the present time, proving that within the last ten years, the duties produced as much as within the former ten years, and the present half century was very little inferior to that which preceded it. He deduced, that in proportion as the duty on sweets was taken off, so did the duty on foreign wines decrease, which in itself was sufficient to prove, that the mixture with the sweets was the occasion of the revenue becoming less from the ports. His lordship compared the different periods, beginning with those ten years, which produced 17,000 tons of foreign wines, and comparing the decrease of about 700 tons in the next, with the increase of the sweets in that period of time. Nothing, he said, could be stronger proof of the justice of this calculation, than the evidence of the facts, as they came authenticated from the commissioners of the Customs, the testimony on record, that when the duty on sweets was high, the revenue on wine increased, and *vice versâ*, when the duties were lowered on the home made, the foreign of course was found to yield less profit to the revenue. What he should therefore expect to have seen done from the result of those facts was, a new duty on sweets equal to that on Port, so that whichever was consumed the public should not lose in its revenue. As to the matter of good, and the effects of adulterated wines, they certainly, except so far as they affected the revenue, were not objects of national consideration. The health of the constitution was that which their lordships should most narrowly watch. They were the physicians by whose skill and advice that great object was to be

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preserved; and where their decision was called for in a most critical case, it was rather selfish to make their own ease and pleasure the first objects of consideration. When he mentioned that the health of the constitution was at stake, he begged their lordships to advert to the Bill upon their table; and there they would find, that all those evils which the wisdom, the prudence, and the patriotic principles of our ancestors, were so industrious to guard against in the multiplication of our excise laws, sprung up, and were cherished by the present Administration. He beseeched their lordships to consider, that the Bill would take away the right of trial by jury; and considering how that had been invaded of late, it behoved their lordships to look to the Bill with the most jealous eye; and they were the more loudly called upon to do so, because the excuse under which the present extension of the excise laws came recommended to Parliament, was frivolous and unwarrantable. The merchant was to be harassed by day and by night, with the most alarming penalties annexed to his transgressions; and yet it would be impossible to take an accurate account of his stock, so as to prevent fraud, if he had an inclination to adulterate or evade the duties. How was it possible to gauge wine? and therefore how could any argument place it on the footing of beer or spirits in respect to the excise? Beer was made in large vessels, where the officer could take an accurate survey, so as to be a check upon the whole of the stock taken by the excisemen in the cellars: but how was this to operate in the present case? It would be impossible for the numerous small parcels into which wine is divided for the purpose of sale, ever to become a check upon the survey of the casks, and *vice versâ*, for the survey to become a check upon the bottles. Wine could not be dipped, because that would render it unfit for those palates, the nicety of which seemed so much the object of the Bill. The permits, however nicely guarded, could not prevent imposition, in sending out small quantities of wines, because when on draught, it would be impossible, at least in a tavern, to prevent it, and many tavern-keepers were wine-merchants. A range of wine in the wood, could not be disturbed, and tossed and tumbled about by excisemen; nor would it be possible for these persons to keep an accurate account of what was in each bin, and what was daily and hourly taken from them.

He begged the attention of their lordships to what he had to advance upon the justice of trial by jury in all revenue causes, to which he had been an ear-witness, on which he had been a judge, and at a time wherein he was, by virtue of his employment, an advocate, by his situation, on the subject of the revenue. During the course of those periodical progressions, he had made a constant remark, that in every case, one excepted, the jury did justice in the most strict manner, both in respect to the exciseman and the complainant. They always, in his eyes, appeared an honour to that institution, and a public record of the impolicy of ever departing from such a constitutional part of our legislative code of laws. He had had many opportunities of admiring this excellent part of our noble fabric of legislation, in the trials which were brought by action against the excise officers; and which legislation he never wished to see new-fangled in such a manner, as to prevent the injured subject from having proper redress from the insolent underlings of office. It was always a maxim with the jury, in cases of excise, to examine whether the officer had behaved rudely or not in the execution of his office, upon an information when it was wrong. If his conduct was insolent, and exceeded his authority, they punished him by damages accordingly; but if, on the contrary, they found that error in his information had caused him to transgress, and that he appeared in that transgression to behave with complaisance, and not to exercise insolence of office, then the jury found so much only as entitled the complainant to his costs, and to what was already deemed a reparation of his expenses—ten pounds or thereabouts. What, in the name of wonder, could therefore influence the present minister to depart from such a system, and by a new clause against the constitution to put it out of the power of either judge or jury to give costs more in amount than *2d.*? Was this a proof of the patriotic principles on which the present ministers promised to conduct themselves? Was this their regard for the constitution? Was it by these means that they intended to continue themselves in power? If it was, he might indeed bid a long farewell to the constitution. Trial by jury was the birth-right of an Englishman, and such was the nature of his disposition in former times, that he would not easily part with it. The learned lord

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now begged leave to trouble the House with a few observations on the opinions which great men held in respect to an extension of the excise laws. Sir Robert Walpole, in the close of his ministerial reign, proposed a system of that kind. The patriots of those days opposed him. The measure was considered by all the principal country gentlemen to be odious, and sir Robert barely escaped from the House with his life. The measure was again thought of in Mr. Pelham's time, and on the very plan of excising wine; but Mr. Pelham, who was as able a statesman, and as excellent a financier, as any who succeeded him, rejected the proposal. It was not then thought of until the administration of Mr. Grenville, who was as excellent a statesman as ever sat on the Treasury-bench, who said, that the small profit which would arise to administration, and the great injury which must be done both to the spirit and letter of the constitution, made the matter wholly inadmissible, under any minister who had a real value for the true interest of Great Britain, and the invaluable blessings of liberty. These particulars, his lordship said, he had received from earl Mansfield; they were great authorities against the renewal of that odious system which so long had been reprobated by this country, and he hoped they would at least have some weight with the House.

He had mentioned, that there was a clause in the Bill, which he should particularly observe upon; it was the following: "And be it further enacted by the authority aforesaid, that in case any information or suit shall be commenced and brought to trial, on account of the seizure of any wine seized as forfeited by virtue of this or any Act or Acts of Parliament now in force, or hereafter to be made relating to the duties on foreign wine, or of any ship, vessel, or boat, or of any horse, cattle, or carriage, used or employed in removing or carrying the same, wherein a verdict shall be found for the claimer thereof, and it shall appear to the Judge, Commissioners of Excise, Justice, or Court, before whom the same shall be tried or heard, and they shall certify that there was a probable cause for making such seizure, in such case the claimant shall not be entitled to any costs of suit whatever, nor shall the person or persons who made such seizure be liable to any action, indictment, or prosecution, on account of such seizure; and that in case any action, indictment, or prosecution, shall be commenced and brought to trial against any person or persons whatsoever, on account of the seizing any such wine, or of any ship, vessel, boat, horse, cattle, or carriage, used or employed in removing or carrying the same, whether any information shall be brought to trial to condemn the same or not, and a verdict shall be given against the defendant or defendants, if the court or judge before whom such action, indictment, or prosecution, shall be tried, shall certify that there was a probable cause for such seizure, then the plaintiff, besides the thing so seized, or the value thereof, shall not be entitled to above two-pence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined above one shilling." This he conceived to be one of the most arbitrary measures ever yet attempted by any ministry. It was, in fact, an abolition of all appeal to the laws of the land for redress, inasmuch as it disempowered courts and juries, made cyphers of their authority, and set an exciseman above the reach of constitutional justice. It made that petty obnoxious officer of greater consequence than any noble lord in the realm, by placing him above the jurisdiction of his peers. It furnished him with authority to laugh at the courts in Westminster-hall, and set both judge and jury at defiance, because he always had it in his power to assign a probable cause. False information was a probable cause, and on that false information a subject under the laws of Great Britain was now to be put to damages and expenses of 10,000*l.* perhaps; and the only return which the justice of his country made him for the outrage against the principles of its constitution, and for his pecuniary sufferings, were two-pence damages, and a fine of one shilling against the culprit! Was this equity, was it constitutional justice, or was it not? He trusted that there was not any noble peer who heard him, but must condemn the letter, the spirit, and the tendency of a clause which held in public contempt all those venerable codes of laws, which, in the breasts of twelve men, had for ages been renowned for wisdom in decision, and for equity in verdicts. The insult was palpable; it left the shadow of a trial to a jury, and took away the substance of justice from the bench. He wished that this clause had been omitted, because it threw out to the world the very ideas under which he suspected the Bill to be fostered,

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and brought to its present state of maturity. Under all these considerations, and even placing the argued necessity as a matter of fact, which, in truth, he believed it not to be, he found that neither conscience, honour, nor truth, could permit him to give his assent to the motion.

Lord *Camden* observed, that no circumstance could give him greater pleasure than to find that all his sentiments were perfectly coincident with those of the noble and learned lord on so patriotic a principle as that of defending the rights of the constitution. They were the invaluable blessings of a free people; and he was pleased to hear so learned, so powerful, and persuasive an advocate in favour of that point which was nearest and dearest to his heart. The extension of the excise laws was a dangerous system, and fraught with multifarious mischiefs. It unhinged the constitutional rights of juries, and overturned that popular basis of every man's house being his castle. It armed petty officers with powers against the freedom of the subject, and put it in the power of the exciseman to insult the innocent, and disturb the tranquillity of an unoffending subject. He had long imbibed these principles; he had been early tutored in the school of our constitution, as handed down by our ancestors, and he could not easily get rid of his early prejudices. They still remained hovering about his heart, and must, on this occasion, come forward, as the new sprouts of an old stalk. Trial by jury was the principal ingredient which formed the excellence of British legislation; take that away, and the whole fabric must in time moulder into dust. These were the sentiments of his youth, inculcated by precept, improved by experience, and warranted by example: yet, strange as it might appear to their lordships, the necessity of the case obliged him to give his assent to the present Bill; and, in opposition to what he had already declared, to plead the necessity of the measure. The kingdom, in respect to its finances, in their present train of collection, was on the verge of ruin. Our credit must be supported by every means, and the Bill seemed to him the best expedient which could be adopted for that purpose. As to what the learned lord had advanced respecting Mr. Pelham, he had only to observe, that Mr. Pelham trod so close on the heels of sir Robert Walpole, and the excise-laws being then in such great disrepute, the danger, and not the objection of the principle, was the cause of that minister's rejecting them; and he could take upon him to say, on very good ground, that in the time of sir Robert, the objection was more against the man, than against the measure. The noble lord then proceeded to take into consideration the various impositions practised by the wine-merchants to delude the public, cheat the revenue, and injure the health of the subject. These dealers, and not the Legislature, were the cause of the extension of the excise laws. It was to their iniquities that the present departure from the constitutional mode was owing. They poisoned the people with a liquor which he could call no other than balderdash; they deprived the revenue of its just claim, and they imposed a new duty upon the subject. This new duty his lordship explained to be the circumstance of the merchant laying sixpence a bottle extra upon port wine, when the necessities of the state scarcely empowered a penny per bottle. Men who could be guilty of such a palpable cheat (it deserved no other name) were to be treated by the Legislature accordingly. As to what fell from the learned lord, respecting the clause of the fine and damages, he must confess, that it met not either his idea of equity, or his principles of justice; but as the Bill had proceeded so far, and this alteration would destroy it for the present session, he must give way to that clause.

The Bill was then read a third time and passed.

Debate in the Lords on the County Election Bill.] June 29. Earl Stanhope's County Election Bill having been read a second time, the noble earl moved that it be committed.

Lord *Sydney* said, that when he considered the importance of the Bill, the multitude of clauses which it contained, and their extensive and complicated nature; and compared them with the late period of the session, he felt himself under the necessity of opposing their lordships proceeding any farther in a business which necessarily demanded so much consideration. The preamble set out with stating that all the laws now in being were inadequate to the effectual securing the rights of freeholders at county elections. That was a fact which required more investigation than he imagined their lordships could allow time for; it proposed also a register, which, as far as he had been

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able to consider the Bill, might operate as a disfranchisement of freeholders instead of securing their votes. The Bill, he understood, had been introduced into the other House early in the session; it had remained there till that time, and had been discussed in exceedingly thin Houses, the House having been once if not oftener counted out. He appealed therefore to their lordships, whether under such circumstances it became their dignity to proceed to agitate the Bill, and endeavour to pass it in that session. Much of it, he believed, might be founded in wisdom and in sound policy; but there were clauses in it which required the facts upon which they proceeded to be well established before it became their lordships to admit them. He therefore thought it his duty to move, "That the Bill be committed that day three months."

Earl *Stanhope* entered at large into the abuses and imperfections of the present laws relative to elections, and stated the objects of the Bill. Would the noble lord declare, that he thought it right that the great expense of contested elections should continue; expenses so enormous, that contested elections had ruined some of the first families in the kingdom, and obliged the heads of those families to quit their native country and turn vagrants on the continent? Ought laws which countenanced proceedings so ruinous, to continue a moment longer on the statute-book? He stated instances of the immoderate costs of a county election, and said that he had been assured by the late sir Charles Turner, that a relation of his stood three contested elections for the county of York, the bills for which to that one individual for the said three elections cost upwards of 100,000*l.*, and that he (sir Charles) was all that money the poorer. His lordship stated the Gloucester election as another instance of immense charge. The noble lord had complained of disfranchisement. He begged leave to assure him, that there was no disfranchisement by the Bill. The noble lord was so ignorant upon the subject on which he had made a speech, that he did not know that thousands and tens of thousands of the voters of this kingdom were at that hour actually disfranchised by the laws relative to the land-tax assessment, and by Mr. Powys's Act of the 20th of the present King; that copyholders (who had no right to vote) were included in the land-tax assessments; and that freeholders (who had a right to vote) were omitted: namely, all freeholders who had purchased their estates free of land tax; that is, those whose land tax was paid out of the estate of some other person. Such were the absurdities of the laws now existing, that at the last general election it was discovered that upwards of one half of the voters were then actually disfranchised. The duplicates of the land tax, which ought to have been signed and sealed by three commissioners, had been signed only by two, some only by one, and others not at all. There were in the existing laws many other informalities very prejudicial to the freeholders. He next stated, that in a particular election, an express had been sent post haste to town to an eminent counsel to know what was to be done; the counsel very ingeniously advised (as he had been informed) to do an act directly in the teeth of the act of parliament in order to get over this difficulty, and to give those voters the *primâ facie* appearance of good votes. This was done, and no person making objection, it succeeded. But any one man in the said county petitioning the House of Commons, would (under Mr. Grenville's Bill, and before that committee) have disfranchised one half of the freeholders of that county, on account of the obscurity of the Act of the 20th of the King. The present laws were highly injurious to the Clergy, as freeholders; and a man of 10,000*l.* a year might be disfranchised by the existing statutes. Therefore that Bill, the bill of the House of Commons, was not a disfranchising bill, but a bill to restore to the freeholders of England, the rights of which, by the folly and rashness of former parliaments, they had been unjustly deprived. —Another great object of the Bill was to support Mr. Grenville's Bill. He observed that the Gloucestershire committee had sitten for three or four months, and the Bedfordshire committee, between two and three months. It had been almost impossible to make a ballot for the Buckinghamshire petition; the reason was, the members would not submit to such a drudgery. If at a general election there should be ten or fifteen petitions from large counties, there would be an end to that most excellent Bill of Mr. Grenville, unless some such plan as that proposed by the present Bill, were adopted. In the Gloucestershire committee no less than 1,500 votes had been contested.

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His lordship stated, that in his opinion that thing called a scrutiny was, of all things in nature, the most preposterously absurd—excepting only the reverse, under the present system, namely, a returning officer, making a return upon the face of a fraudulent poll, without a scrutiny, the returning officer not being able when he takes the poll to distinguish for want of a register, which were good votes, and which bad. His lordship enumerated the absurdities of a scrutiny in the following order: 1st, If continued beyond the day of the return of the writ, a member might be kept for a year or two years out of the House. 2d, If not so continued, then the return would be made upon an unfinished scrutiny, which was palpably absurd. 3d, If the returning officer scrutinized only votes on one side, and had not time before the return day of the writ to scrutinize the votes on the other side, the return would be made on a sided scrutiny. 4th, That by the Attorney General's Bill of the last year, the votes were to be alternately scrutinized one by one on each side. Suppose of the 1,500 contested votes in the case of the Gloucestershire election, fifty or sixty had by this alternate scrutiny been struck off on each side, and the scrutiny were to close for want of time; then the return would be made just the same as if there had been no scrutiny, and had been made on the face of the poll. All this was not only simply absurd, but a complicated dilemma of absurdities. The whole system must therefore be altered; that was the object of this excellent Bill, and it was proposed to be done by a register of county votes.

The Earl here entered into the principles of his Bill, which he stated to be nine in number: 1. According to the Bill, no man could hereafter vote for any property which had not been registered for at least twelve months. This would prevent any man's coming on a sudden on the day of election, and stating himself to possess a freehold, never heard of before. The register would prove whether the claim of the person tendering his vote, was so far just, that the freehold really existed, and had been registered twelve months. 2. No man having purchased his freehold estate with a view to vote, could vote unless he had been for twelve months enrolled on the register, as the holder of the freehold he came to vote for. 3. A man's coming to the possession of a registered freehold estate by devise, descent, marriage or promotion to a benefice in the church, could, upon registering, vote directly. 4. No man could lose his right by another man's neglect, this was a fundamental principle of justice, but was nevertheless totally disregarded by the existing laws, for there it did not depend upon its being the man's own fault that he was disfranchised; he might be deprived of his franchise by the neglect of others, as in case of the informalities in regard to the assessment to the land tax already stated by him. 5. The necessity of enrolment on the register occurred but once in a man's life; and the whole trouble it occasioned, was to go to the register-keeper within the parish to be enrolled. Freeholders living at a distance might, according to the Bill, enroll by attestation without travelling to the parish. 6. There was to be a register in each parish, and for each parish; and consequently it would be near those who were acquainted with the estate; and it could not be expected that any man would have the impudence to come and vote for an estate, stating it to be in a particular parish, when so many persons could confront him, and prove that there was no such estate in the parish in question. 7. The poll-books were also to be divided into parishes, which would be correspondent with the registers. 8. A new principle, and which (addressing himself earnestly to the three bishops present), his lordship said, must recommend itself particularly to those whose immediate duty it was to take care of our religion, viz. that a false oath should not be taken. It was the single instance where the true principle of preventing perjury had been adopted. He explained this, by stating, that on account of the circumstances and the oath being so well considered, it must be followed by certain and immediate detection. He asked, why was the principle capable of preventing perjury? For this plain reason, by the form and words of the first part of the oath, the voter was to swear that his name was enrolled on a book that was present; second, that he was the identical John Smith enregistered; and third, that he was in possession of the said enrolled property. Let their lordships think a moment upon these allegations. Would any man, the most hardened villain upon earth, venture, in the first place, to swear that his name was entered on a register that was present, if upon turning over a leaf or two, it could be immediately seen and known

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that no such name was enrolled? Would he, in the next place, personate John Smith, before many individuals to whom the face and figure of the real John Smith were familiar? And in the last place, would he swear that he was in possession of property which the register-keeper of the parish must know to be in the possession of another person? 9. And not the least important and essential principle of the Bill was, that returning officers should no longer be judicial, but merely official and ministerial. This would put a stop to corruption and fraudulent returns.

Having stated these nine principles, his lordship said that the Bill ought undoubtedly to go to a committee; and he begged the House to recollect, that that was the question, and not that the Bill should pass. In the committee they would be able to discuss its principles and provisions, and to see whether it deserved to pass or not; but to reject it without a single reason assigned, and without discussion, would be an instance of unutterable indecency. He reminded their lordships, that this was the second time the Bill had passed the Commons, and that some respect was due to it, if it were merely on that account. With regard to the thinness of the Houses it had been debated in, the Houses had not always been thin; above 120 had, at one time, divided upon it, and of the whole 558 members, there had been but 20 against it in any one division last year, and 22 this session, while it had been supported by the best and ablest men on both sides the House.

The Marquis of *Carmarthen* felt it his duty to vote against the motion. It surely was the duty of their lordships to pay due attention to every bill which came before them, without regard to the particular period of the session at which it was submitted to their consideration; and if the subject was extremely important, the more necessary was it undoubtedly that it should engage their lordships immediate attention. That the object which the present Bill professed to aim at obtaining, was most important and desirable, was admitted on all hands. Would their lordships, then, refuse to go into a committee, in order to examine how far the Bill was likely to answer its purpose? With regard to the argument, that a bill's coming from the other House, upon the privileges of which House its clauses and its principles solely turned, was no reason why it should not be examined; undoubtedly it was not. It was clearly their lordships duty to examine and discuss every bill on every subject which came before them; but then surely the authority of the Commons in respect to a bill immediately concerning themselves, ought to have some weight with their lordships; and unless some flagrant absurdity was discoverable in a bill so circumstanced, it would be at least entitled to their lordships consideration.

The House divided on lord Sydney's motion: Contents, 4; Not-contents, 11. The Bill was then ordered to be committed. The Contents were lord Sydney, and the bishops of Bangor, Bristol, and Lincoln.

July 5. On the order of the day for the third reading of the Bill,

The Bishop of *Bangor* remarked, that he had voted against this Bill in every stage of it, and had hitherto objected to it, because oaths were made use of as the sanction, when a pecuniary penalty secured obedience to such a law. The bishop said, that the present general inadvertency to the obligation of an oath was much to be lamented; and it would become their lordships seriously to consider, whether the requiring of oaths so frequently, and oftentimes in cases wherein a better substitute might be easily provided, had not contributed more than any other circumstance to lessen that reverence for oaths which the Legislature ought by every possible way to keep up. Were there no other objection but this, the House would be fully justified in throwing out the Bill; but there were many other. The commissioners of the land-tax were to be principally employed in the execution of this Bill; and as it would involve them in a great deal of trouble and expense, it was not to be expected that they would take much pains about it. As this Bill proposed to repeal all the laws now in being, which relate to the election of county members, the kingdom would be in a strange situation if it should pass into a law, since, as such an act as this would never be carried into execution, we should, strictly speaking, have no established rules to go by in that important part of our constitution, the election of the county members. As the commissioners of the land-tax would not put themselves to the trouble of executing such an act, which gave them no allowance, or their charges on the road, &c. so if they were disposed to execute it, they would not be able to effect

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their purpose, as the Bill was so complicated, that the commissioners, who were generally plain country gentlemen, would not be able to understand it. The bishop then entered into an examination of several of the clauses, for the purpose of proving, that if the Bill passed into a law, great inconveniences would follow; and as there was not time now to make the necessary amendments, that was a strong reason for postponing it to another season. He should therefore move, "That the Bill be rejected."

The Earl of *Hopetoun* said, that the frequent use of oaths had been attended with bad consequences; but he did not think that a bill of this kind could be carried into execution without an oath, and he should not therefore agree to leave out that part of the Bill. With respect to the other objections, he allowed they had weight, but not sufficient to throw out such a bill, which was only a bill of experiment.

The Earl of *Sandwich* said, that he had had as much experience as any man in election matters, as far as a peer could interfere, and he never yet found any inconvenience from the present system, and would on no account countenance the innovations which this Bill would make. He had read with surprise that paragraph in the Bill, which makes the sheriff only ministerial, and deprives him of his judicial authority. A sheriff, who is a man of sense and candour, is certainly very useful in rejecting improper votes, and by such means preventing double returns, which must always be the case, when men are admitted to vote indiscriminately. He adverted to that part of the Bill which sets aside a scrutiny. A scrutiny was a matter of right, and arose naturally out of this business: and it would be a most extraordinary stretch of power to deny the unsuccessful candidate that privilege. He entirely agreed with the right reverend prelate, that if this Bill passed into a law, it would never be executed, as the commissioners of the land tax, who are enjoined to execute, would probably give themselves no concern about it: and if they did make an attempt towards carrying it into execution, they would certainly fail, as it was not their province to construe long and intricate acts of parliament, nor were they able to do it. As this Act repealed all the present laws relating to county elections, and as it would never, for the reasons above mentioned, be carried into execution, the consequence would be, that we should have a repeal of all the election laws, and this act in force, which would not be executed; or, in other words, we should have no one law or regulation for our conduct in this important part of our constitution.

Their lordships divided on the motion that the Bill be rejected: Contents, 17; Proxies, 21: Total, 38. Not-contents, 12; Proxies, 3: Total, 15.

Debate in the Commons on the King's Message relative to the Crown Lands.] June 16. The Chancellor of the Exchequer presented the following Message from his Majesty:

"GEORGE *R.*

"His Majesty, being desirous that an inquiry should be made into the state and condition of the woods, forests, and land revenues, belonging to the Crown, in order that the same may be rendered as beneficial and as productive as possible, recommends it to the House of Commons to take this object into their consideration, and to make such provision thereupon, as they shall judge to be most for the public benefit."

June 19. Mr. *Pitt* having moved the order of the day for taking the said Message into consideration, stated the great importance of the subject, and how highly worthy it was of the attention of the Legislature, whether it was considered in its probable consequence of increasing the revenue, or contributing to improve and extend the state of agriculture and population. He should not, for the present, suggest any specific measure for carrying this object into execution, whether by still holding them in the hands of the Crown and applying regulations for their better administration, or by putting them up to sale. But whichever mode was ultimately adopted, it would necessarily require considerable time before it could be brought to perfection. In the former case, a part only could be at first taken into hand, and that for experiment, which might be found for some time ineffectual, and be necessarily altered and amended; and in the case of a sale, the whole could not be brought to market at once, because that might not only be a means of defeating in a great measure the intention of the plan, but be also productive of much private inconvenience to individuals, and to

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property in general. Gentlemen, then, ought not to entertain any very sanguine hopes of immediate great advantages from any plan which might be adopted, yet still, in every point of view, it was certainly an object of very great importance. He did not mean to propose any specific measure for the final adjustment of the business, but only a necessary step towards such an arrangement as might ultimately be approved of. Steps had already been taken to procure an exact account of the extent and value of the lands belonging to the Crown; but it was found that the powers of the executive government were not completely adequate to the end proposed, and therefore an application to Parliament became necessary for such further powers as should enable Government to appoint commissioners for that purpose. He then moved, "That leave be given to bring in a Bill for appointing commissioners to inquire into the state and condition of the woods, forests, and land revenues belonging to the Crown."

Leave was given to bring in the Bill.

June 29. On the report of the said Bill being brought up,

Mr. *Jolliffe* said, that the Bill had been silently introduced, without notice of its real purport. It had been read a second time at a period when a number of gentlemen of great property, who were the most likely to be affected by it, had left town. This gave him a suspicion of it, and occasioned him to examine its contents. He found that it granted powers to commissioners named by the Chancellor of the Exchequer much greater than ever were before given to any man in this country, and much greater than any ought in any country to possess. These commissioners were to continue during the term of three years; they were not removable by his Majesty, or by address of parliament. This was a system of novel introduction, and one which he by no means approved. Surely if ever there should be such a power in his Majesty, it ought to rest in a Bill like this, which related to interests, in which the rights and privileges of the Sovereign were so much concerned. His next objection was, that they were in no respect compelled to report. Why were they not, as the commissioners of accounts, to report their proceedings at the opening of every session? As the Bill now stood, the public had no security that they would execute their duty at all; so that immense expense might be incurred without producing any good effect. His next observation led him to take notice, that they were to nominate and appoint what clerks and officers they thought proper. This surely was liable to great abuse; and although their salaries were limited, it savoured ill towards the economy of which we had such frequent boasting. Some limit, he thought, should also be fixed to the expenses of mapping, planning, and surveying. But the greatest objection, which need only be named to shew the necessity of altering it, was the unlimited power given by this Bill, of demanding and requiring all titles, maps, plans, and documents respecting any lands holden of the Crown, in whose custody or possession they may be; so that no man, after the passing this Bill, could call the property which he now possesses his own. The moment this was a law, he had no certainty of title; that was to be surrendered, and to be detained or returned at the discretion of these commissioners. This was constituting a court of inquisition of a dangerous nature; indeed, such an one as he believed did not exist in any state, however despotic in other respects. Wherever a reservation was made for the delivery of copies of deeds, it was invariably the custom to insert a clause that they should be made by persons appointed by the holder of the deeds, but at the expense of the person claiming them. Without such a power the possessors of property might be put to enormous expense, or risk their title-deeds in the hands of those with whom they would be least disposed to trust them. There were, however, some parts of the Bill which might, by proper care, produce good. The increase of the patronage and influence of the Crown was, in his idea, no bad step; it presaged a reform in the Chancellor of the Exchequer's whimsical and speculative ideas of the purity of manners and the virtue of the times; it shewed that he was to be taught by experience, and that we might hope that even the extreme of wisdom might improve. He rejoiced to find the right hon. gentleman a convert to his opinions, and that the ideas which he had always held were found in practice to be just and necessary. It was true these opinions of the right hon. gentleman had been expressed while he was in opposition, and certainly things appeared wonderfully different on different sides of the table.

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Circumstances and situation made prodigious alterations in our ideas; but, like all converts, the right hon. gentleman was zealous. Not content with a large increase of influence, he must add to it at least as much power. How far this conduct squared with his former declarations, the House must judge. The other possible good to arise out of the Bill was the sale of the waste lands, by which some of them might perhaps be cultivated. But he thought this no improper time to observe, that he was convinced that the Chancellor of the Exchequer would render his country infinitely more service by some general regulations respecting the improvement of waste and uncultivated lands in all parts of the kingdom, and raise in the end a thousand times more revenue to the state, than by harassing the miserable retail traders, by nonsensical taxes on pomatum, odours, and wash-balls; such articles as need only be named to be ridiculed: but of this he had little expectation from one who did not possess land enough to set his foot upon, nor was connected or allied with any who were likely to look to the landed interest as the great source of credit, of opulence, and prosperity to the country. He probably did not know that there were thousands of acres of land in this kingdom which did not produce an article of the smallest benefit, and yet might be rendered of considerable value by proper cultivation. It was a wise and true saying, that "he who made two blades of grass to grow where one stood before, benefitted society more, and was a greater friend to mankind, than he who conquered kingdoms." It was certainly true, that he who improved the agriculture of the country did infinitely more service than he who only drained the pockets of the people, without thinking of the means of enriching them. But there was no reasonable ground to hope for such a desirable system being adopted, until we should have at the head of our affairs men of great landed property, who had intercourse with the country, who would be advised as to such objects, and whose real motive for filling high situations was to render this country real service. As to the commissioners, in his opinion, they ought to have salaries. If they were to do any thing, they should be paid; if nothing, they ought not to be appointed: but they ought by no means to be left at the mercy of the minister, to reward them or not as he thought proper, and according as their conduct in parliament might meet his approbation.

The report was agreed to.

Debate in the Commons on the King's Message respecting Sir Guy Carleton.] June 26. Mr. Pitt presented the following Message from his Majesty:

"GEORGE *R.*

"His Majesty, being desirous of conferring a signal mark of his royal favour on sir Guy Carleton, Knight of the most honourable Order of the Bath, in consideration of the important services performed by him to his Majesty and this country, and of granting for that purpose a pension of 1,000*l.* per annum to lady Maria Carleton, wife of the said sir Guy Carleton, and to Guy Carleton and Thomas Carleton, sons of the said sir Guy Carleton, for their several lives; but, it not being in his Majesty's power to grant the same, or to settle the said annuity for so long a term, his Majesty recommends it to his faithful Commons, to consider of a proper method of enabling his Majesty to grant the said annuity, and of settling and securing the same in the most effectual manner."

Mr. Pitt remarked, that the pension had been promised so far back as the year 1776.

June 27. The order of the day being read for taking the said Message into consideration, Mr. Pitt moved, That the Speaker do leave the chair.

Mr. *Wilbraham* expressed his disapprobation of the conduct of ministers in not having stated to the House the reasons that had occasioned so long a delay between the time when the pension in question was promised, and that in which it was proposed to carry that promise into execution. There was no man in the kingdom had a higher opinion of the character of sir Guy Carleton than he had; but he was surprised to find that the King's message had omitted to state the particular services by which he had distinguished himself so as to deserve the mark of royal favour proposed to be conferred on him. This omission was the more remarkable, because in the messages by which his Majesty had applied to that House for pensions for lords Rodney and Hood, the services of those officers were particularly specified.

Mr. *Pitt* was surprised to hear any gentleman demand a particular recital of the

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services of sir Guy Carleton: he apprehended that no person who remembered the American war could have forgotten them. It was not, at all events, the proper time to discuss the merits of the subject; the question then before the House being nothing more than for the taking into consideration his Majesty's message.

Sir *George Howard* said, he should briefly state both the services of sir Guy Carleton, and the reasons for the delay. In the first place, when all our other colonies had revolted, he, by his gallantry, activity, and industry, saved the city of Quebec, and by that means the whole province of Canada. The reason why the delay had taken place did the highest honour to the feelings of sir Guy. When the important services he had performed in America, were known to his Majesty, he determined to reward him for them, by conferring on him a pension equal, and in the same manner as that now proposed. The necessary papers were accordingly sent for sir Guy to sign, previous to his being entitled to the pension, in a ship ready to sail for Canada. This ship did sail, and had a most prosperous voyage as far as the Gulf of St. Lawrence, when it was attacked by a violent storm, and forced to return to Europe without landing in America; consequently the papers not having been signed, the pension could not then be granted. Shortly after, general Burgoyne was sent out to a command in the northern provinces, which sir Guy imagined he was himself intitled to, and feeling himself ill-treated by being overlooked in the appointment, he applied for leave to resign, and accordingly returned to Europe. The completion of his Majesty's intention relating to the penson, was then offered to him; but he declined it for the present, on the idea of delicacy, because, as he alleged, there being at that time an intention of examining him as a witness, on the affairs of the colonies, at the bar of that House, he was apprehensive that some persons might entertain a suspicion that so recent a pension would possibly have an effect on the testimony he should give. Shortly after, the Bill was brought in, restraining the power of the Crown in the granting of pensions, and it became necessary to defer it until an application to Parliament, such as that now made, should be brought forward to empower his Majesty to make good his gracious promise.

Mr. *Courtenay* said, he could easily explain the reason why his Majesty had, in some instances, specified the service of the persons meant to be rewarded, and had omitted to do so in the present. The services of lord Rodney and Hood were conspicuous and brilliant, and his Majesty, as well as every other person in the kingdom, were fully acquainted with them; they were therefore easily enumerated. Whereas there had been no services whatsoever performed by sir Guy Carleton, and therefore none could possibly be mentioned. Sir Guy had by no means protected Quebec; it was the inhabitants in conjunction with chief justice Livius (whom general Carleton afterwards expelled from his situation), that protected it. Instead of taking any measure for the defence of Canada, he had left St. John's, which was the frontier and barrier of that province, in a state completely defenceless; so that there could be no reason whatever for granting him a pension on account of his military services. He supposed, therefore, it was for services of a different nature, and principally for contriving the law by which British subjects were deprived of the privileges of the British constitution, that this pension was to be conferred on him. On the whole, however, he could not but approve of the caution of the right hon. gentleman in his silence on the subject of sir Guy's services, and totally resting the question on his Majesty's promise; which certainly was the only ground on which the House could comply with the proposal.

Captain *Luttrell* replied to Mr. Courtenay, reprobating his censure of sir Guy in a very pointed manner: he called to the recollection of the House the whole life of sir Guy, which had, he said, been a series of services. In the most brilliant war we ever sustained, he was foremost in our most hard-earned victories, and in the most disgraceful contest in which we ever were engaged, he alone of all our generals was unconquered. All he regretted was, that the motion for a pension did not originate in that House; and he almost envied his Majesty the honour of having anticipated the people of England and their representatives in suggesting it. He wished that to the 1,000*l.* a year proposed by the Crown, that House could add another thousand; and he regretted that any promise had ever been made to sir Guy, because he was now entitled in justice to what he wished should have been the voluntary gift of generosity.

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Mr. *Fox* thought it by all means the most constitutional method of rewarding a military officer, that it should be done at the motion of the Crown, rather than from the original suggestion of that House. He thought, however, that as there had been a considerable delay since the time when the circumstances that prevented sir Guy from accepting the pension had any existence, and as that delay was a manifest injury to that gentleman, it ought to be accounted for.

The House having resolved itself into the committee,

Mr. *Pitt* rose and observed, that the services of sir Guy Carleton were of such a nature, and of such long standing, that had it not been his Majesty's pleasure long ago to have promised him the pension now proposed, he should have been happy to have been himself the mover and adviser of it. The uncommon but meritorious delicacy of sir Guy had created the necessity of recurring to Parliament on the present occasion; for had his sense of honour permitted him to accept of the pension when it was offered to him on his return from America, the King was then of his own power competent to grant it; the Bill restraining that power not being at that time in existence. He was sure, however, that the present discussion would be rather an advantage than the contrary to sir Guy, as he would have the satisfaction of finding the measure pass unanimously, or at least *with* but one dissenting voice; and that one, which if it did not add to, would at least not diminish the honour of the grant. Shortly after the circumstance that had occasioned sir Guy to decline the immediate acceptance of the pension, the act of parliament for limiting the discretion of the Crown in the disposal of pensions had taken place: this naturally caused a further delay; the many changes that took place in administration, subsequent to that period, still added to it, and it was highly probable that his Majesty's ministers might, from the scrupulous nicety and disinterested spirit of sir Guy Carleton, be ignorant of the existence of any such promise: for his own part, he was ignorant of it for some time since his coming into office; but still he confessed he might have taken an opportunity of bringing the business forward at the end of the last session; he should therefore endeavour to atone for his remissness, by proposing that the grant should have a retrospect so as to indemnify sir Guy for what he had lost by the delay of the session. He therefore moved, "That the annual sum of 1,000*l.* be granted to his Majesty, out of the aggregate fund, to commence from the 1st day of Jan. 1785, and to be settled, in the most beneficial manner, upon lady Mary Carleton, wife of sir Guy Carleton, knight of the most honourable Order of the Bath, and Guy Carleton and Thomas Carleton, sons of the said sir Guy Carleton, for their several lives."

The motion was agreed to *nem. con.*

June 28. The resolution being reported,

General *Burgoyne* requested the indulgence of the House to deliver a few words, unnecessary to them, because they were already duly impressed with sir Guy Carleton's merits, but very essential to his feelings. It had been his lot to serve with sir Guy in different parts of the world, but particularly in Canada, where he was second to him in command. After the campaign, he had the honour and the pride to mention, with high and deserved encomiums (as all others did), that officer's military talents, which it was the aim of men in power to depreciate. In 1777, he (general B.) went to Canada in consequence of his Majesty's orders to be put at the head of sir Guy's troops on an expedition which, sir Guy conceived, he ought to have commanded in person. Whatever might have been the cause of the misfortunes attending that expedition, no blame could possibly be imputed to sir Guy Carleton. On the contrary, he should regard himself as most dishonourably criminal, if he did not take every occasion to declare, that had sir Guy been personally employed in that important command, he could not have fitted it out with more assiduity, more liberality, more zeal, than, disappointed, displeased, and resentful against the King's servants, he employed to prepare it for a junior officer. He mentioned this not only in praise of personal honour, but as a great example of military principle. There was another merit in this great officer more applicable to the part of the favour which depended upon that House than the most brilliant military actions; and that was, the purity of hand and heart with which he had always administered the expenditure of the public purse. When an officer had been in situations, in which nothing could have prevented his enriching his family but a

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scrupulous attention to his public duty; when pensions thus became necessary for the support of a family, that House would always consider it to be its duty, to mark such examples by distinguished favour, and thereby excite emulation amongst those who might hereafter be employed on similar occasions.

The motion was agreed to, *nem. con.*

Debate in the Lords on the Disposal of the Bodies of Convicts after Execution.] July 5. Lord *Loughborough* observed, that he rose under the fullest conviction of the necessity of stating to their lordships, that there was a Bill in the House, of the nature and scope of which, he declared, he had been wholly unacquainted till last Monday, when he happened to be present when it was brought up; but it was a Bill of so serious a nature, so important in its consequences, and so likely to affect the morals of the community, that he could not suffer it to proceed without calling upon their lordships to put an end to any farther progress in it for that session. The Bill to which he alluded, had been introduced in an extraordinary manner, and was a Bill undoubtedly of the first magnitude, since it went so far as to affect the criminal justice of the country by altering it in mode and execution, and imposed such hardships on the judges of the land as made their case at least a very compassionate case, when an opportunity should offer for his going more at large into explanation on the subject, than he meant then to do, unless it should be the wish of the House at that time to hear the reasons which he had to submit to its consideration respecting it. [A general cry of Hear, hear!] Collecting it to be the sense of the House that he should proceed, he would pursue his subject somewhat farther. The Bill in question was one for changing the sentence of convicts in certain cases. The Bill contained a clause, directing the judges to order the bodies of all convicts for burglary, robbery, &c. to be given to a surgeon; and yet would it be credited, that the judges had never been consulted about a Bill under which they were to act in a manner perfectly new and unheard of before? It would have been natural to have supposed, that any gentlemen who thought of a project for altering the criminal law, and its mode of execution, would at least have asked the opinion of some one or other of the judges, and shewn his intended Bill to him, if he had not found it convenient, or chosen to have consulted the whole of them, previous to his broaching his project in either House of Parliament; but he believed no one of the judges had ever seen, or perhaps heard of the Bill, till it came into the House of Lords; at least he was sure that the judges of the court in which he had the honour to preside had not heard what the nature of the Bill was, till he informed them of it on Tuesday morning. In all preceding times every Bill relative to the criminal justice of the country, and its mode of execution, was submitted to the opinion of the judges in the first instance; and, sure he was, the judges of this day, one individual excepted, were as well entitled to be treated with respect, and to have the confidence of all men reposed in them, as any of their predecessors. The judges were the description of men most likely to discover any defects in the execution of the criminal justice of the country, if any such defects there were; and in that case it might be presumed they were as competent to suggest a remedy as any other order of men who constituted a part of the mass of society. But the judges, he was perfectly sure, saw no palpable defect which called for a remedy, much less such a remedy as that proposed by the Bill.

His lordship proceeded to point out the parts of the Bill which affected the judges, and took away from them powers long since wisely placed in their hands. He observed, that in this country, from the natural humanity of the people, our punishments were in general mild, and in no case attended with torture or circumstances of aggravated severity and cruelty, as in other states. For a considerable number of years the law stood undisturbed by any addition of punishment, but at a particular period, 25 Geo. 2, when the crime of murder became more than ordinarily common to London and Westminster, the necessity of the case naturally called upon the Legislature to provide some check, and then it was that the statute he had just mentioned passed, the title and preamble of which ran thus: "A Bill more effectually to prevent the horrid crime of murder;" and the preamble stated, that "Whereas murders had of late frequently happened, contrary to the natural genius and known character of Englishmen, it became necessary," &c. By this statute, the addition of taking away the

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right of burial, and destining the body of the criminal to dissection after execution, was made. That addition had been found of essential advantage to the community; criminals hardened in vice, and practised in villainy, had stood with a firm countenance during trial, and had even heard sentence of death passed on them without emotion; but when the judge informed them, that their bodies were to be deprived of sepulture, and that they were to undergo a public dissection, their countenance changed, they grew suddenly pale, trembled, and exhibited a visible appearance of the extremest horror. This sort of exhibition had always made a forcible impression on the minds of the by-standers, and he had not the smallest doubt was attended with the most salutary consequences. Was it wise, therefore, to destroy this salutary effect, by making the deprivation of the rights of burial a common and an ordinary consequence of every conviction of almost every capital offence? He, in his capacity, as a justice, and he was sure every other justice, must have seen repeated instances of the effects produced by the addition to the sentence of death, which he had described. Another consideration of no small importance was, the strong prejudices of all ranks of people, but especially of the lower order, in favour of burial and the disposal of their bodies after death. In fact, there existed few men who did not feel great anxiety on the subject; and would their lordships say, they thought the feelings, and even the prejudices, of the lower order, a matter of small moment. As the Bill stood, the judges were directed to order the bodies of convicts of certain descriptions to be given to surgeons after execution, which was, in the first place, a direction so loosely worded, that it was scarcely possible to act under the clause, even if the Bill should pass; but if it did, the clause effectually took away from the judges the power of granting a respite, a power which they had long possessed, and the exercise of which had been found to have been wisely placed in their hands. In London, where the criminals had been many of them born thieves, and nursed and bred up in constant habits of depravity and vice of every kind, it might not have the same good effect; but at a distance from the metropolis, where the convict had been born of reputable parents, had a valuable wife, or good connexions of any kind, a more edifying scene could not take place than the last adieus of the convict in prison previous to his execution, the impression made by which, on all present, was deep and lasting. At his funeral again, another scene of useful woe was exhibited—respect for the family of the defunct, his former credit, the recollection of his fate, and a variety of circumstances, all possessed the minds of the surrounding spectators, and, beyond doubt, were productive of consequences which conduced to the preservation of the good morals of the vicinage. Another, and a very material consideration, presented itself, and that was, the inducement to commit still greater crimes, which the Bill held out; for surely nothing could be more obvious, than that if the same punishment were to attend the convict for burglary as for murder, breaking open a house would generally be attended with murder, as robberies in France were, the criminals there knowing that the commission of the one crime was to receive no greater punishment than the other.

His lordship stated the tendency that the Bill would have to remove all religious prejudices from the minds of the lower order of the people, and appealed to the bishops, whether the manners of the times were such as to render it advisable to wipe away religious ideas and sentiments from any ranks of the community? That, however, was a topic on which they were more competent to discourse than he could pretend to be: he nevertheless felt that such would be its effect, and therefore thought it right to state it. He took notice of the loose and inaccurate manner in which the Bill was drawn, a circumstance which sufficiently proved, that the author was not used to the subject upon which the Bill professed to go. In one part of the Bill, calculated for operation in London and Middlesex, it talked of justices of assize, when it was notorious there were no justices of assize in either London or Middlesex. He mentioned other inaccuracies, and said, that the words used in the Bill were not apt for the purposes to which it was evident that they were meant to be applied. He dwelt for some time on the impropriety of men not conversant with law, turning projectors in respect to it, and in moments of vivacity coming forward with raw, jejune, ill-advised, and impracticable schemes for the alteration of the mode of distributing and carrying into execution the criminal justice of the country. When he was in the other House of Parliament, as attorney at one time, and as solicitor-general

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at another, he had always thought it his duty to check the introduction of every such project: and in one instance which he particularly remembered, where it had happened that a convict for a great offence, in suffering the sentence of the law, was accidentally deprived of his life; on that occasion a gentleman of known humanity (Mr. Burke) proposed to change the mode of the punishment and make it death in future. He, at the time, repelled the project, and though he was satisfied that its having been proposed, arose from the most laudable motives, and that it was with a view to make the sentence of the law more lenient than it was, he had been then, as he now was, of opinion, that the judges were the persons with whom alterations of the conduct of criminal justice ought to originate. With regard to the present Bill, its object was not lenity but pure cruelty, and that without a prospect of any advantage to the community, but a certainty of much serious disadvantage.

Having argued the first part of the Bill, his lordship proceeded to the second, viz. that of changing the punishment of women, convicted of high and petty treason, from burning to hanging. With respect to this, his objections were not so strong as they were to the former part, though he saw no great necessity for the alteration, because although the punishment, as a spectacle, was rather attended with circumstances of horror, likely to make a more strong impression on the beholders than mere hanging, the effect was much the same, as in fact, no greater degree of personal pain was sustained, the criminal being always strangled before the flames were suffered to approach the body; and this sentence, such as it was, was rarely inflicted, convicts being generally indicted on the other statutes, which made the convict subject to transportation only, and not death, so that burning for coining was not inflicted above once in half a century. As the Bill stood, however, petty treason was included, and the punishment was to be changed in that respect as well as the other, to which he was now ready to consent, as there were cases of petty treason, such as a wife's murdering a husband, and others of a like nature, of a very atrocious nature; and which called for a more exemplary punishment than other crimes. His lordship next recurred to his argument upon the first part of the Bill, and urged additional reasons in proof of its extreme objectionableness, besides the indecent mode of its introduction, without the knowledge even, much less the approbation of the judges, whom it deprived of the power of exercising a discretion which called for exercise in many cases, particularly that of conviction for rape. A more enormous crime than a rape he scarcely knew; and yet frequent instances were to be found of convictions for rape, where the party accusing was notoriously a common prostitute. The law wisely made no distinction, and looked merely at the crime, and not the persons. Legally, therefore, where the charge was made on oath, and there occurred no means of disproving it, the person accused must necessarily be convicted of a capital offence; but would any man in his senses contend, that the case was the same with the conviction of a man charged with the rape of an innocent woman, a pure and spotless maiden, or a chaste and discreet matron, against whom no imputation of improper conduct could ever be sustained? Surely the instances were widely different, and every man must admit that the judge who, governed by the circumstances of the case and the characters of the accused and accusing, granted a respite, and got that respite followed with a pardon, made a wise exercise of his discretion. He concluded with moving, "That the order for the Bill, to be reported this day, be discharged," meaning, he declared, to follow it up with another motion, "that the report be made upon that day three months."

Lord *Sydney* said, that the learned lord had discussed the subject with so much ability and force of argument, that he should not have troubled the House with a single word, had he not in one part of his speech appeared rather to speak to the views and designs of the gentleman who had originally introduced the Bill, than to the Bill itself. What he alluded to, was the learned lord's declaration, that the object of the Bill was founded in pure cruelty. This was an imputation so unmerited by the gentleman who introduced the Bill, that he could not suffer it to pass unnoticed. A more worthy, liberal, and humane man did not exist; and all who knew him, he was sure, would join with him in declaring, that if any individual was more averse from any thing like cruelty than another, that gentleman was the individual. Having thus rescued Mr. Wilberforce's character from what appeared to him to be a harsh imputation, his lord-

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ship declared that he concurred entirely with the learned lord, that all bills affecting the criminal justice of the country, ought to receive the approbation of the judges previous to their being proposed to parliament, and whenever he either had, or hereafter might have, any bill of that nature under his charge, he should always take the judges opinion whenever it could be obtained. With regard to the parts of the present Bill, to which the learned lord did not object, he should be glad if he would, in another session, assist in bringing in a bill founded upon them; and there was another Bill, which he also wished much for the learned lord's assistance in; a bill to discriminate the various and distinct crimes classed under the general head of burglary, and to apportion distinct punishments. He wished to have the distinction legally laid down, that the house-breaker, in the worst sense of the word, might not be encouraged in his excess of criminality, from hearing that the offender of the lesser species of guilt, though the crime was classed under the same name as his own, was pardoned.

Lord *Loughborough* answered, that when he remarked that the object of the Bill was pure cruelty, he meant to speak merely of the probable consequences of the Bill if it passed, and had no idea of imputing a bad motive to the author of it. On the contrary, he verily believed that he had the best intentions; but was not aware that the criminal justice of the country was too weighty a consideration to be lightly handled, or rendered the subject of a speculative project. With regard to the noble lord's suggestion on the subject of burglary, including a variety of crimes extremely distinct and disproportioned as to their degrees of enormity, the fact was undoubtedly true; and if a bill, which he did expect they would have heard of that session, a bill concerning the institution of a better police for the metropolis, had been brought forward, in all probability he should have taken the liberty of proposing some alterations in relation to the case in question. What he had in idea, was, to give the judges a discretional power of proportioning the punishment of convicts for burglary to the degree of criminality attending the particular case, and, under some circumstances, to discharge the convict immediately.

Earl *Bathurst* felt it necessary to trouble the House with a few words, in order that neither their lordships nor the audience might conceive, because the Bill had passed one stage on that day, that there was any intention to have smuggled it through the House. He himself had made many alterations in the committee, with a view, as the judges were summoned for the next day, to consult the judges as to their opinions of the Bill. He was indifferent as to the fate of the Bill either one way or other. He approved of the greater part of the learned lord's arguments, but thought the learned lord mistaken in some few points which he mentioned.

The question was put, and the order discharged; lord Loughborough then moved, "That the report be received upon that day three months," which was agreed to, *nem. diss.*

Debate in the Lords on the Crown Lands Bill.] On the order of the day for the third reading of the Crown Lands Bill,

Lord *Loughborough* began by calling the attention of the House to a Bill, which he stated to be of the first importance, but which, from the indecent hurry with which it was carried through, he perceived most of their lordships were equally unacquainted with, as he had been, till an accident brought to his knowledge, that such a bill was in existence. The day before, a gentleman had called upon him with the Bill in his hand, to ask this very extraordinary question: whether the private rights of individuals were protected? He had no difficulty in answering, that it was impossible they should be affected by any bill whatever, much less by a bill which bore inquiry only as its title. But much surprised was he indeed, when, upon reading the Bill itself, he found that not only private rights were disturbed, but the forms of Parliament violated, the decent respect due to his Majesty and the Royal Family transgressed, and the estate and rights of the Crown treated with less respect and attention, than by the forms of Parliament must have been paid to the claims of the meanest individual in passing a common turnpike bill. The Bill was now at its last stage; and, with so little ceremony had a subject of this importance been treated, that not even a printed copy of it had been laid before the House, and he was obliged to speak from a copy of the Bill which had been printed by the Commons, before it went into the committee. If, therefore, he mistook any part of the Bill, the circumstances in which it stood, would be,

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for him, a sufficient apology, while at the same time, it would furnish a strong proof of the scandalous manner in which Parliament was treated, and of the indecent mode in which the rights and properties of the Crown and the royal family were disregarded and trampled upon. He begged leave to inform their lordships, that neither the title nor the preamble of the Bill, would give them any information with respect to its contents. The title was, to appoint commissioners to inquire into the state of the land revenue of the Crown; the preamble stated his Majesty's message, who had been graciously pleased to desire that such an inquiry should be made. Had the Act only carried into effect what was expressed in either the one or the other, he should merely have said, that it was idle and nugatory, and that the best mode in which the commissioners could execute their duty, would be to send to the different offices to desire that the surveys and other papers already prepared, should be laid before them. He could assure their lordships, that the estate of the Crown was as accurately, surveyed, as fully inquired into, and as carefully managed, as that of any private individual; but the contents of the Bill went infinitely beyond either its title, or his Majesty's gracious message. It vested in commissioners, who were not removeable by the Crown, an absolute power of sale of all rents of every description within the survey and receipt of his Majesty's Exchequer, accompanied with other powers of an extraordinary and dangerous nature. There was no reservation or exception of any of those rents, which had been, by the careful attention of former parliaments, cautiously prevented from being disposed of; at a time too, when the power of the Crown over its landed estate was almost unlimited. Even the ordinary officers of the Crown were put under the control of the commissioners; and the Crown itself, to which the decency of former parliaments had left the absolute and uncontrolled management of its landed estate, with regard to remissions, and all the numberless favours which flow from bounty and from kindness, was disgracefully put under the direction and management of the gentlemen appointed by the Act. He knew not these gentlemen, and he was willing to believe them as respectable as any of their friends could wish; but surely the Comptroller of the Navy, an able officer, colonel Call, an excellent engineer, and governor Holdsworth, must have the first rudiments of the duty imposed upon them by this Bill, to learn. The powers given by this Bill, ought not to be given to any men, however respectable. No men were more respectable than those to whom the Derwentwater estate had been, in former times, entrusted, till their situation gave them opportunities and offered temptations which produced all the fraud which followed upon that business.—The first leading objection to the Bill was, that the estate of the Crown was directed to be sold, without any previous consent from his Majesty. No bill, by the usage of parliament, could ever be introduced into the other House, which, in the remotest manner, affected the estate of the Crown, without a consent was signified, previous to its introduction. In the present instance, his Majesty had been graciously pleased to desire an inquiry to be made, under the pretence of doing which, his estate was to be sold and disposed of, possibly without the knowledge, and certainly without the consent of the Crown. How so glaring an impropriety, such complete disrespect to the Sovereign, had escaped observation in the other House, he could not tell. It was impossible that their lordships could so far forget what they owed to their Sovereign, as to give their concurrence to a Bill, which differed so materially from its professed object, and which carried in it such a marked disrespect to that person to whom the highest respect and reverence were due. Nor was this all: his Majesty was not the only person concerned in the estate of the Crown; her Majesty and the Prince of Wales were also interested in it. Had any means been used to gain their assent to this Bill? It was reason sufficient to stop any bill affecting private property, that the consent of the persons interested in it had not been applied for. But it was not to the Crown alone that this Bill was iniquitous and unjust, it authorized a a sale of all rents of every description without any reservation whatsoever. It began with repealing two acts made in the reign of Charles 2.; and yet, in a subsequent clause, it so far kept in force those very acts, which the former clause had repealed and vacated. In the reign of Charles 2, a project was entertained by that prince of raising money by the sale of the fee-farm rents. The Crown at that time enjoyed as unlimited a power over its estates as any private individual; aliena-

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tion was guarded against only by the multitude of officers concerned in completing the act, and by the responsibility of ministers. In the execution of this project it was found necessary to come to parliament; not for any new powers, but in order that the purchasers from the Crown might become entitled to the benefit of the prerogative process, which they would not have otherwise been. Charles 2. conveyed his fee-farm rents to five trustees, who were to be instruments of the conveyance under the directions of the Treasury. But so cautious was the parliament of that day, before they would assist the Crown in an alienation, which it had a power to make, that, with much wisdom, they expressly stipulated for certain descriptions of rents, which should not be sold. These were quit-rents and copyhold rents belonging to any manor; first fruits and tenths, and rents reserved *nomine decimæ* payable to any ecclesiastical person; rents allowed to any school, hospital, or other pious or public use; rents which had not been brought in charge for forty years; rents payable to the Queen, and rents payable to his Majesty, or the Prince, arising out of the principality of Wales. Quit rents and copyhold rents, and rents incident to a reversion in the Crown, were not to be sold, because in many cases the manors and rents were under lease. The sale of the reversionary interest was at all times bad, nor could the rents be separated from the manors, or from the reversions to which they were incident, without destroying the remedy for their recovery, and in some cases destroying the thing to be sold. All such rents were to be sold by the present Bill.—First fruits and tenths were now, indeed, specially appropriated to the increase of small livings; but rents payable to the clergy *nomine decimæ* still remain, and are usually, if not constantly, given to them for charitable purposes. All these, as well as those which the piety and bounty of our sovereigns had usually given to public or pious purposes, were, by Charles 2's parliament, preserved from sale, but are by the present Bill to be all disposed of, without any regard to the purposes to which they are employed. The caution of that parliament too, for the ease of the subject, prevented the sale of such rents as had not been brought in charge for forty years, in order to prevent individuals from being harassed by adventurous purchasers searching out and buying up dormant titles. No such care was paid to the interest of the subject by the present Act; every rent or claim not cut off by the *nullum tempus* Act, whether put in charge for forty years or not, may be sold to every hunter for dormant titles. The rents payable to the Queen, and those payable out of the principality of Wales, although the beneficial interest for the time was in the Prince, fell under the description of this Bill, as being under the survey of the Exchequer, and might be disposed of by the commissioners. It was well known, that the Welsh revenue, though considerable, was inadequate to the charges upon it; it was known, too, that there was scarcely an estate in the principality, out of which something was not paid or claimed. It was equally known that many rents had particular charges upon them yet; all were to be disposed of without regard to the dignity of the person to whom they were paid, the sacredness of the use to which they were appropriated, or the public utility of the purpose to which they were applied.—And here their lordships would perceive the concealed purpose for which the Act of Charles 2. was repealed; the extravagance of former times had left no rents in the Crown, which could be disposed of, but those reserved by these acts: to get at these rents the acts were repealed; but the object was cautiously concealed, because it was no less scandalous than the manner of attaining it was indecent. The authority given to the commissioners was equally new and extraordinary. They were directed to take means for the redressing abuses in the management of the landed estate of the Crown: the estate of the Crown was as completely known and managed as that of any individual; if abuses existed, they must exist either in remissions of rents, or the alleviating of fines, or the dispensing with oppressive services, the remains of feudal tyranny. Such was the decency of the Act of the 1st of his present Majesty, by which the revenues of the landed estate of the Crown were directed to be carried to the aggregate fund, that the complete, absolute, and uncontrolled management of it was left to the Crown. By the present Bill, the ordinary officers appointed by the Crown were superseded by commissioners, members of Parliament, who were not to be removable by the Crown for four years; who were to ransack every branch of the

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management of the royal estate, and to inquire why this remission, why that fine was not exacted, why this oppressive service was not requested? A power so degrading to royalty ought not to be invested in any hands. Much had been said upon a former occasion of the appointment of officers not removable by the Crown in a case where direct necessity called for it. How was it to be justified in the present instance?—Nor less censurable was a clause of the Bill, which gave the commissioners a power to examine witnesses on oath, and send for papers of every description wherever they might be. This was a power to send for every nobleman's steward, and order him to bring with him the writings of his master's estate.

Earl *Bathurst* here said, that this was altered, and confined to papers in any public office.

Lord *Loughborough* observed, that this was only another proof of the indecent manner in which Parliament was treated. He then proceeded to animadvert upon that clause which gives the Court of Exchequer a power, upon motion only, to issue a commission to examine the boundaries of the estate of the Crown, which formerly could only be done by an information of intrusion filed by the Attorney General. This he stated as a power given to harass every individual whose estate bordered upon that of the Crown, in a summary way, without the usual and ancient forms of law. He next took notice of the clause which prohibited the cutting any wood upon the estate of the Crown, without the consent of the commissioners, as destructive to grants already made to individuals, who in many cases had a right to cut; and concluded with recalling the attention of the House to the point with which he began; the gross impropriety of authorizing a sale of the estate of the Crown, without even the pretence of its consent. He conjured the House not so far to forget the respect due to Majesty, not so far to forget what was due to themselves, as to pass such a bill, so full of more than usual inaccuracies, at a season of the year when business was shamefully crowded upon the House. He asked, if the numberless bills which lay on their lordships table were like the acts of men who could call themselves a government? He declared, that if this Bill should pass, he would, by exercising his right of protest, vindicate himself from the indecency and disgrace of it; and if upon any occasion he could be brought to give advice, where advice never ought to be given unasked, he thought the present a bill where his Sovereign ought to be advised to use the prerogative which he possessed, of saying to the Bill, "he would be better advised."

Earl *Bathurst* said, he could venture to affirm, that he knew the Bill perfectly well, and, if he understood it at all, the powers which it gave were as innocent as any powers could be, since it was merely to authorize commissioners to inquire into the rights of the Crown respecting the Crown lands and forests; for which purpose it vested them with a power to call for leases, grants, titles, &c. The measure was by no means new and unprecedented. Exactly such a bill had passed two years ago, respecting the sale of the rents of the Duchy of Lancaster. He declared that he was not aware that it was necessary, in bills of that nature, that his Majesty's consent should be expressly stated. There was no standing order for it whatsoever; and the Royal Message implied, that the two Houses were to proceed to do that with respect to the Crown lands which should to them appear most for the public benefit. As to the second part of the Bill, that, in his mind, referred only to those small and remaining rents undisposed of under the Act of Charles 2. With regard to the rights of subjects entitled already to cut the timber on the royal forests, the Bill did not in the smallest degree affect them. He for one had such a right, and he should make no scruple to exercise it on the day after the Bill should become a law, as freely as he did at that time.

The House divided: Contents, 14; Proxies, 14: Not-Contents, 11; Proxies, 7.

Protest against the Crown Lands Bill.] The following Protest was entered on the Journals:

Dissentient for the following reasons:

1. "Because the provisions of the Bill are extended to an object not disclosed in the title, and the preamble not expressed in his Majesty's most gracious Message, on which the Bill professes to be founded; an inquiry to be made into the state and condition of the woods, forests, and land revenues belonging to the Crown, is the only purpose set forth in the title and preamble; his Majesty's Message authorizes no more; yet the Bill proceeds to a sale of certain parts of the land revenue belong-

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ing to the Crown, which is neither conformable to the usual course of parliamentary proceeding, nor consistent with the respect due to the immediate possessions of the Crown.

2. "Because the sale directed by the Bill is injurious to the Crown, without being beneficial to the subject; it is not restrained to the rents remaining unsold (if there be any such), under the directions of the Acts 22d and 23d of Cha. 2. But these Acts are by this Bill expressly repealed, a new power is created for the sale of Crown-rents under the survey of the Exchequer, without any exception of rents within the principality of Wales, or those paid in name of tithe by the ecclesiastical persons; of those charged with the support of schools, hospitals, bridges, of those paid by freehold or copyhold tenants of manors belonging to the Crown; neither is there any saving of the rights of the Queen's majesty, nor do any protect the subject against the claim of rents not put in charge within 40 years; all which exceptions and reservations were inserted in the Acts now repealed.

3. "Because the powers of survey given to the commissioners are dangerous to the quiet of the subject, and derogatory to the honour of the Crown. Commissions of inquiry are directed to be issued by the Court of Exchequer on the mere motion of the commissioners, without any other form of judicial proceeding, or any attention to the ancient Court of the Exchequer, whereby all estates contiguous to any forest or lands belonging to the Crown, are subject, at their pleasure, to an inquisition into ancient boundaries, supposed encroachments, and concealed titles; by the powers of inspection and control, which on a supposition of abuses not stated, are given to these commissioners. The tenants of the Crown may be restrained from their accustomed privileges, in the occupation and renewal of their estates, and the management of the Crown lands, which, with a just and becoming confidence, is in the most ample terms reserved to his Majesty, by the first act of his reign, in the 9th and 10th sections, is submitted to the censure of the commissioners, not appointed or removable by the Crown.

4. "Because every just purpose which the appointment of commissioners can reach, might, without expense to the public, have been attained, by calling for the reports of the officers of his Majesty's land revenue, to whose skill, diligence, and integrity, no exception has been made.—*(Signed)*—Loughborough, Carlisle, Portland, Sandwich, Chr. Bristol."

The King's Speech at the Close of the Session.] July 11. The King went to the House of Lords, and made the following Speech to both Houses:

"My Lords, and Gentlemen;

"I cannot close this session of parliament without expressing the particular satisfaction with which I have observed your diligent attention to the public business, and the measures you have adopted for improving the resources of the country.

"Gentlemen of the House of Commons;

"I thank you for the supplies which you have granted for the service of the current year, and for the provision you have made for discharging the incumbrances on the revenue applicable to the uses of my civil government: the most salutary effects are to be expected from the plan adopted for the reduction of the national debt; an object which I consider as inseparably connected with the essential interests of the public.

"My Lords, and Gentlemen;

"The assurances which I continue to receive from abroad promise the continuance of general tranquillity. The happy effects of peace have already appeared in the extension of the national commerce; and no measures shall be wanting on my part which can tend to confirm these advantages, and to give additional encouragement to the manufactures and industry of my people."

The Parliament was then prorogued to the 14th of September; and was afterwards further prorogued to the 23d of January, 1787.

FOURTH SESSION OF THE SIXTEENTH PARLIAMENT OF GREAT BRITAIN.

King's Speech on Opening the Session.] January 23, 1787. His Majesty came to the House of Peers, and opened the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"I have particular satisfaction in acquainting you, that, since I last met you

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in parliament, the tranquillity of Europe has remained uninterrupted, and that all foreign powers continue to express their friendly disposition to this country.

"I have concluded a treaty of navigation and commerce with the Most Christian King; a copy of which shall be laid before you. I must recommend it to you to take such measures as you shall judge proper for carrying it into effect; and I trust you will find that the provisions contained in it are calculated for the encouragement of industry, and the extension of lawful commerce in both countries, and by promoting a beneficial intercourse between our respective subjects, appear likely to give additional permanence to the blessings of peace. I shall keep the same salutary objects in view, in the commercial arrangements which I am negociating with other powers.

"I have also given directions for laying before you a copy of a convention agreed upon between me and the Catholic King, for carrying into effect the sixth article of the last treaty of peace.

"Gentlemen of the House of Commons;

"I have ordered the estimates for the present year to be laid before you, and I have the fullest reliance on your readiness to make due provision for the several branches of the public service.

"The state of the revenue will, I am persuaded, continue to engage your constant attention, as being essentially connected with the national credit, and the prosperity and safety of my dominions.

"My Lords and Gentlemen;

"A plan has been formed, by my direction, for transporting a number of convicts, in order to remove the inconvenience which arose from the crowded state of the gaols in different parts of the kingdom; and you will, I doubt not, take such farther measures as may be necessary for this purpose.

"I trust you will be able, in this session, to carry into effect regulations for the ease of the merchants, and for simplifying the public accounts in the various branches of the revenue; and I rely upon the uniform continuance of your exertions in pursuit of such objects as may tend still farther to improve the national resources, and to promote and confirm the welfare and happiness of my people."

Debate in the Lords on the Address of Thanks.] His Majesty having retired,

The Earl of *Rochford* rising, remarked, that whilst he presumed to trespass upon the time and patience of their lordships, he was not in the least unconscious that if the business of the present day required support from powers of argument or strokes of eloquence, it would much more become him to preserve a modest silence, and leave the task of deep investigation and mature decision to those possessed of influence and abilities, which he must constantly despair of reaching. But the occasion carried with it a full apology for his intrusion; and certainly if ever a moment could arise to countenance his speaking, it was the present, when the grateful voice of an affectionate and loyal people became unanimously busied to express their exultation at the escape which his Majesty, protected by Providence, had made from the hand of assassination, and when all men must perceive with satisfaction and joy, that the valuable and dear life, thus providentially preserved, was still graciously employed for the welfare of these kingdoms. The objects to which his Majesty had turned his attention, and to which he called theirs, were important and necessary. That the prosperity of this commercial country might still farther be promoted, his Majesty had availed himself of peace with the Most Christian King, to secure and extend the happiness and glory of his dominions by a commercial treaty, of which he would only say at this time, that when its merit should be made a subject of investigation and discussion, it would, he doubted not, meet with their lordships approbation and applause. The steps taken for carrying into execution the sixth article of the convention with Spain, were a part of the same liberal plan, which embraced the security and extension of commerce, so essential to the interests of a great and trading nation. And the measures pursued for clearing the gaols of the number of felons with which they were crowded, would shew, that no object connected with the safety and happiness of the nation escaped his Majesty's attention. With regard to the finances and revenues of the country, it was needless to observe how important the right management, improvement, and application of those were to the public good. But the object which, on the present occasion, naturally claimed a preference before all others, and in which all other considerations would for a moment be suspended and lost, was the calamity with which the nation had been threatened,

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but which had been happily averted. He alluded to his Majesty's escape from assassination: a matter which demanded, in the first place, their dutiful congratulations. The very first day and hour of their meeting was the proper season for carrying such loyal and affectionate congratulations to the foot of the throne. The death of that excellent and amiable princess, his Majesty's aunt, the princess Amelia, was as fit a subject of condolence as the preservation of his Majesty's life was of congratulation. Both were proper and natural occasions for their lordships to approach the throne, with those sentiments of loyal and grateful affection which pervaded the whole nation. Under the recollection of these circumstances, he would beg leave to move the following Address:

"Most gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in Parliament assembled, beg leave to return your Majesty our humble thanks for your gracious Speech from the throne.

"Permit us to express to your Majesty the eagerness with which we take the earliest opportunity offered to us of joining the unanimous voice of our fellow-subjects, in congratulating your Majesty on the late providential interposition of the Almighty in the preservation of a life so valuable to your people. We acknowledge, with reverence and gratitude, the divine goodness in averting the calamity with which we were threatened. We join in the general admiration of those virtues which compose your Majesty's character, and humbly beg leave to assure your Majesty, that we are happy in testifying the share we take in the loyal and affectionate attachment to your sacred person, which pervades the breasts of your Majesty's subjects in every part of your dominions.

"It is with most sincere concern that we condole with your Majesty upon the loss which you have sustained by the unfortunate death of that illustrious and excellent princess your Majesty's aunt, her royal highness the princess Amelia.

"The present appearances of the preservation of the public tranquillity, as well as the assurances given to your Majesty by foreign powers of their friendly disposition to this country, gives us the greatest satisfaction.

"We return your Majesty our hearty thanks for your goodness in directing the treaty of navigation and commerce with the Most Christian King, and the convention with his Catholic Majesty, to be laid before us; and we beg leave to assure your Majesty, that, in considering measures of so important and interesting a nature, we shall be happy to find in them a tendency to give an additional permanency to the blessings of peace, the encouragement of industry, and the extension of lawful commerce between your Majesty's subjects and those of the Most Christian King, and that we shall with pleasure concur in any regulations calculated to insure those salutary purposes.

"We learn, with great satisfaction, that your Majesty has taken measures for the transportation of a number of convicts, and for removing the inconveniencies which arise from the crowded state of the gaols; and we beg your Majesty will be assured that we shall be ready to concur in such farther provisions as may be found necessary for this purpose.

"We shall with the same readiness cooperate in whatever regulations mny appear to be proper for the ease of the merchants, and for the simplifying the public accounts, in the various branches of the revenue; and your Majesty may depend upon our best and steadiest exertions in pursuit of such measures as may tend still farther to improve the national resources, and to promote and confirm what has ever been the first object of the parental care and attention of your Majesty, the welfare and happiness of your people."

Lord *Dacre* observed, that he flattered himself that their lordships would indulgently ascribe the presumption, if it deserved the appellation, with which he ventured to address them, to his sincere and cordial loyalty to his Majesty's person and government. He was happy in having an opportunity of expressing, in that public manner, his duty to his Sovereign; and equally happy in the reflection, that he only re-echoed the sentiments of the people of Great Britain at large, when he rose to second the motion. At a time when every sentiment was naturally absorbed in gratitude to Divine Providence and affection to his Majesty's person, it would ill become their lordships to waste their hours in debates, which might wear an ungracious aspect, and be liable to interpretations equally dishonourable and erroneous. As to the merit of the commercial treaty, and the salutary tendency of the other matters touched on in the

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Speech from the throne, they would be discussed on a future day. For his part, he professed his entire approbation and confidence in the wisdom and the activity of Administration, whose measures he would be always ready to support, as long as they exerted their abilities with integrity and diligence, for the good of the public.

The Address was then agreed to, *nem. diss.*

The King's Answer to the Lords' Address.] To the above Address his Majesty returned this answer:

"My Lords;

"Your expressions of affectionate attachment to my person and government, as well as your assurances of proceeding to the consideration of the important objects which I have recommended to you, give me the greatest satisfaction."

Debate in the Commons on the Address of Thanks.] The Commons being returned to their House, and his Majesty's Speech read by the Speaker,

Viscount *Compton* observed, that he believed it was scarcely necessary to remark with what patriotic joy every member of the House must have listened to an assurance from the highest authority, that the tranquillity of Europe was likely for years to continue perfectly uninterrupted. He considered it as a proof of the growing wisdom and humanity of nations, who had discovered that it was not merely the most serviceable policy, but the most meritorious conduct, to introduce and impart permanency to the various felicities of peace. With equal pleasure would the House consider the just and liberal ideas which now prevailed throughout Europe with respect to commerce. Commerce could never exist under numerous and heavy restrictions. It was owing to our prejudices that restrictions had so long continued between England and France; two countries which, of all the European nations, were the best situated for commercial intercourse. It must consequently be grateful to every lover of his country to find that these prejudices no longer existed, and that a treaty of navigation and commerce was concluded, which would not only promote industry, and increase our wealth, but secure to us advantages far more interesting to humanity, by rendering permanent the blessings of peace. As to the transportation of convicts, it was a measure of absolute necessity, arising from the crowded state of the gaols, and no penitentiary houses having been built, though an act had passed for their erection. Transportation, therefore, was the only remedy for an evil which required immediate redress.—He trusted that the House would certainly agree, that no plan could be more useful than that of simplifying the public accounts in the various branches of the public revenue; and with equal readiness would they admit the importance of increasing the national resources. On this occasion, they would please to carry in their recollection, that two events had taken place since their last meeting, in which all who had any personal attachment to their Sovereign, were deeply interested,—the attempt upon his life, and the death of the princess Amelia. It was therefore highly becoming in them to condole with his Majesty on the loss of his most excellent and illustrious aunt, and to join their congratulations to those of a grateful people, on an event which ascertained to him how much he was deserving of their affections. Whilst the House weighed all these circumstances in their minds, he felt the firmest confidence that they would unanimously support him in his motion, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his gracious Speech from the throne:—To take the earliest opportunity of offering in our own name, and in that of all the Commons of Great Britain, our most hearty congratulations on the preservation of a life so justly dear to his people; and to express our sense of the peculiar favour of Providence in averting the danger to which we were exposed, and rendering it only the occasion of manifesting, in the fullest manner, those sentiments of duty and affectionate attachment to his sacred person, which are deeply rooted in the hearts of all his Majesty's subjects:—To condole with his Majesty on the unfortunate death of that most illustrious and excellent princess, his Majesty's aunt, the princess Amelia:—That we learn with great satisfaction that the tranquillity of Europe remains uninterrupted; and that his Majesty continues to receive assurances from all foreign powers of their friendly disposition towards this country:—That we are sensible of his Majesty's goodness in having directed the treaty of commerce and navigation with the Most Christian King, and the convention agreed upon

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with the Catholic King, to be laid before us:—That both these events, particularly a measure so important and extensive as a commercial arrangement between this country and France, must be highly interesting to us, and our constituents, and that it will afford us the truest satisfaction to concur in any measure calculated for the encouragement of industry, and the extension of lawful commerce, and which, by promoting a beneficial intercourse between the two countries, shall appear likely to give additional permanence to the blessings of peace:—That his Majesty may rely on our readiness to make due provision for the several branches of the public service; and that the state of the revenue, so nearly connected with the national credit, and the safety and prosperity of his Majesty's dominions, will continue to engage our unremitting attention:—That we shall be desirous of taking such measures as may be necessary for the transportation of convicts, in order to remedy the inconvenience which has arisen from the crowded state of the gaols in different parts of the kingdom:—That we shall diligently apply ourselves to the consideration of any regulations which can be adopted for the ease of the merchants, and for simplifying the public accounts in the various branches of the revenue; and that it will be equally our duty and inclination to use our utmost exertions in pursuit of such objects as may tend still farther to improve the national resources, and to second his Majesty's gracious and paternal wishes for the welfare and happiness of his people."

Mr. *Matthew Montague* observed, that previously to his seconding the motion, he must beg the indulgence of the House, whilst he adverted to those parts of the Address, which corresponded with the topics of his Majesty's gracious Speech. He wished to express his hearty concurrence with those sentiments of joy and congratulation which are so naturally excited by his Majesty's late happy deliverance: happy, indeed, might he call it, since the general horror and alarm had been fraught with no other consequence than the most earnest testimonies of the general love and veneration for his sacred person. Upon this interesting occasion, truly might he remark, that "We felt for our own danger, we rejoice in our own preservation."—For his own part, he could protest that he derived some degree of confidence from the assurance that the present session was opened with the most joyful prospects of returning wealth and prosperity. He rejoiced that it was not his business to urge the House to renew the efforts of an unsuccessful war, or even to join in the acclamations of victory. He contrasted the uncertainty and destruction attending schemes of conquest with the solid advantages of peace and amity; the foundations of which were only to be laid on the basis of mutual advantage.—The House, he believed, would form a similar idea with himself of the losses to our trade by every successive war with France; of the weight of debt incurred by disputes with our rival neighbours, which nothing but the almost preternatural force of accumulated industry could surmount. The principle of the treaty, the expediency of the provisions, he left to be enlarged upon by those who were more competent to speak on such subjects; he expressed his own approbation, the result of what judgment he was capable of exercising on so extended a business. He enforced the necessity of such a treaty, at the present conjuncture, from the loss of our monopoly of the American market; and because the trading capital which had been forced towards that quarter by the extraordinary profits of the monopoly, must take some new direction. The present treaty only cleared and made free those channels through which the efforts of trade would tend to pass in spite of injudicious obstructions. He compared the monopoly of America to an annuity upon an uncertain ill-administered fund, the trade to France to a fee simple, with prompt and constant payment. After mentioning the necessity of a simplification of the customs, he concluded by asking the House, what was to be the consequence, if the present treaty received the sanction of Parliament? The triumph of the successful warrior, was followed by the exulting eyes and hearts of his fellow-citizens; regardless of the hazards we have run, the dangers we have escaped, we think only of his services and his conquests; and should the laborious wisdom of political prudence, which reaches permanent ends without the intervention of chance, which secures the bloodless acquisition of endless wealth, the price of empire, the hope of public redemption, pass unnoticed, unpraised, unrewarded? Should the minister who enriches his country, inattentive to his own private emolument, be unrevered? No. To re-

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compense a character so illustrious, reputation and glory should eagerly step forward; and if the patriotic father deservedly beheld the laurels thickening all around him, amidst the brilliant successes of those warlike enterprises which arose upon the basis of his sagacious counsels, not less abundantly should wreaths of olive gather about the person of his equally aspiring descendant, whom the rectitude of his heart, and the force of his own abilities, each animated by the recollection of paternal instructions, and more by attachments to his country, had stimulated to the happiest cultivation of all the arts of peace.

Mr. *Fox* rose and declared, that there was not in the Speech nor in the Address one sentiment which he did not fully agree with, nor which he was not ready to avow. Indeed, he should have been exceedingly sorry had there been occasion for any difference of opinion respecting an Address beginning with expressions of congratulation to his Majesty, upon an event, in the failure of which every man, of every party and description, both within and without those walls, must be of one and the same mind, and must cordially and sincerely join in the most heartfelt joy and satisfaction. He was glad, therefore, that the Address had been so properly worded, that it did not call for opposition or objection of any sort, since, without pledging the House to an approbation of the treaty of commerce, or to any future vote upon the subject, it barely returned thanks for his Majesty's gracious communication of the fact, and promised to consider it, when properly before the House, with the attention which a matter of such infinite importance well deserved. That being the case, and as from the subject of the early part of the Address, it must be to be wished, that such an address should pass *nemine contradicente*, he assured the House he would not object to it; and that, in all probability, he should have contented himself with giving his silent vote on the question then before the House, had not something fallen from the noble lord and the hon. gentleman who moved and seconded the Address, and particularly from the latter, that looked so like grasping at general principles, as the principles upon which the commercial treaty was to be maintained, that he thought it necessary to rise then, and in as few words as possible, take some notice of those principles, which he would do in a general manner, without entering at all into detail upon the treaty, which he was well aware was neither properly before the House, nor then under discussion, but which he should give his sentiments upon at a future opportunity.

The noble lord who moved the Address, and the hon. gentleman who seconded it, had contrasted the uncertainty of war with the solid advantages of peace, and the substantial benefits of commerce with the destructive means of conquest, as if it were a fact, that this country had ever gone to war for the sake of extending dominion, or gratifying a lust of power, and an inordinate ambition. The fact, he declared, was notoriously otherwise; and he was enough of an Englishman to rise in vindication of his country, and assert in that assembly, and he would assert the same in an assembly appointed to hear the cause of nations, were it possible for such an assembly to exist, that in all our wars—all our late wars at least—this country had not gone to war for the sake of ambition, nor with a view to acquire extension of dominion, but had been forced to take up arms either in her own defence, or for the sake of defending the liberties, and balance of power of Europe, endangered by the overweening power of France, and her alarming endeavours to grasp at the government of all the European powers of this quarter of the globe. This, any one who looked into the history of this country, would find to be the true state of the case; he therefore denied, in the most unequivocal manner, that any insinuations to the prejudice of this country, as if she had heretofore gone to war for the mere sake of triumph and of conquest, had any, the smallest foundation in truth. Every man knew, that peace was preferable to war; commerce preferable to conquest: it would be highly preposterous to advance an opposite opinion; and upon that principle had the government of this country been uniformly conducted for the last century.

After dwelling upon these points for some time with his usual warmth and energy, Mr. Fox adverted to the treaty with France, upon which, he said, he had not yet made up his mind; nor was it possible for him so to do, until the treaty was not only properly before the House, but until he had heard from his Majesty's ministers a full explanation of the real character of the measure. He was not yet aware whether it was to be considered

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as a treaty having a political tendency, and calculated to operate in the manner of an alliance with France, or whether it was to be considered as a treaty merely commercial, and as having no other effect than the establishment of a commercial intercourse with the neighbouring kingdom. In one or other of these lights the treaty must have been made, and in one or other of these lights must ministers mean that it should be regarded; but then it could be considered in one of these lights only, and not in both. One of them must be denied, and the other avowed; one defended, and the other disclaimed. Not meaning to go into the treaty then, and not having the information that ministers possessed, it was not in his power to say which of the two descriptions was the proper one: but thus much he was willing to say beforehand, and without any farther information on the subject; namely, that he should be much better pleased if ministers were to declare that they meant it merely as a commercial treaty, and that France understood it as such, and as such only. In that case ministers would have to prove, that it did not provide a new channel of commerce at the expense of all the other ancient channels, which this kingdom had long been in possession of, and which had been found to be sources of commercial wealth and prosperity. If, on the other hand, ministers avowed that the treaty was meant as a political measure, and that they had in view that sort of connexion that should render it more difficult for France and this country to go to war than heretofore, they then would have to shew strong and satisfactory reasons for their having pursued and concluded a measure so new in the annals of this country, and of such infinite magnitude and importance.

Mr. Fox took a general view of the conduct of France towards this country, and towards all the powers of Europe. He desired it to be remembered, that France had only changed her means—not her end. Her object had uniformly been the same, though her system of acting was different. In the reign of Louis the 14th, the aim of France was open and avowed; the means she employed to attain her end, offensive, arrogant, and shameless. She had seen her error, and acted upon principles of a wiser policy; her means were now more mild, more amiable, more benevolent. They did her humanity credit; they allured, they conciliated, they worked her purpose secretly, but securely. Formerly, oppression and power were her engines; engines offensive to all who beheld their unjustifiable exercise, and such as could not fail to rouse general indignation, and animate to resistance every power that had a spark of spirit, of generosity, or of goodness in its composition. Hence the weak found advocates, the oppressed protection; and hence the daring attempts at universal monarchy, made by Louis the 14th, were opposed, baffled, repelled, and frustrated. What was the engine with which France operated her wished-for end at this time? Influence! that secret and almost resistless power; that power with which ambition gains its purpose, almost imperceptibly, but much more effectually than with any other.

At this time, too, it ought, Mr. Fox said, to be held in mind, that Louis the 16th possessed abundantly more power than ever Louis the 14th could boast of; and that superiority, great as it was, would in all probability be considerably heightened very shortly. At such a moment, then, was it right to enter into a connexion, by treaty, with the Christian King? How was it to be accounted for, but by supposing that there were in this country some men so dazzled with the splendour of Louis the 16th, so conscious of the eminence of power which France had lately attained, that they sunk before it, and, lost in their own despondency, thought it right for us, diminished as our splendour was, in comparison with the aggrandizement of our continental neighbour, to seize the earliest moment of making terms with her, forming a connexion by treaty, and by that means artfully securing a claim to her protection? Far was it from him, to intend to charge the right hon. gentleman opposite to him, with entertaining such abject opinions, or with thinking of abandoning all expectation of the possibility of France being once more humbled; but, he was persuaded there were men in the country, so lost to the memory of its former greatness, as to feel in the manner he had mentioned, and to advise and act upon the littleness of their own minds.

Having put this forcibly, Mr. Fox asked to what motives were we to ascribe the sudden civility of France towards us? Was it to be considered as a proof of her moderation? Had she entered into the treaty with a view to give the lie to the old and rooted opinions of philosophy, that it was

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a principle inherent in human nature to be eager to acquire more, in proportion as a great deal more than could have been expected, was already acquired? Did she mean to clear up her character at once, and do away the libellous charge so long alleged against her, that she was actuated by overweening ambition, and an insatiable thirst after extension of power? Glorious conduct, if such was its principle and its motive! Matchless self-denial! to abjure the acquirement of almost irresistible power, when it was rendered so easy.

But, could any man in his senses believe in the splendid illusion? Could any statesman think that moderation, at a moment when moderation seemed least necessary, was the real and true motive that had induced France, to put us in a state that had the appearance of rendering all future hostilities between her and Great Britain almost impossible to happen? Let those who thought so, recollect that, paradoxical as the assertion might appear, the Cabinet of France had been the most consistent in its conduct of any that ever existed. Notwithstanding the genius and character of the French, as a people; notwithstanding the levity of their manners, the fickleness of their minds, the constitutional mutability of their conduct; the Cabinet of France, as a cabinet, had uniformly acted upon the same principle, aiming at the same end, and only changing the means of attaining that end, as the necessity of the times, and as the suggestion of a wiser policy dictated. If ministers supposed that France acted upon a principle of sincerity and friendship towards us, let them point out the proofs of that friendship. The way to judge of the friendly intentions of those with whom we negociate, was not, he said, by looking to the manner of their negociating with us, but their conduct with other powers, as far as it regarded our interests. Ministers might, as yet, be said to be in the honeymoon of their connexion with France. Had they, during that period, felt the influence of France greatly operating in our favour with those powers with whom we were negociating treaties? Did it manifest itself in the court of Portugal, in the court of Spain, or in the court of Petersburgh? Were the symptoms of it strongly traceable at any one of these courts? Where else was a symptom of it to be found? At this time France, that formerly was celebrated for having the most powerful army of any European power, had an army the fourth only upon the continent; Prussia, the Emperor, and Russia, had much greater armies. What was the reason of this? The reason was obvious. France relied for her security on other means of defence—on the influence she possessed with the neighbouring powers, and the alliances she had formed. Those circumstances enabled her to diminish her land force, to reduce her army, and direct all her attention to her marine. Was her doing so a favourable symptom to this country? Did it indicate any extraordinary proportion of partiality towards Great Britain?

The hon. gentleman, who had with considerable ability, and much to his own credit, seconded the Address, had laid down a position, the language of which was more elegant than the sentiment, he feared, was just. He had said, that in abandoning the monopoly of our trade with America, and opening a commercial intercourse with France, we gave up a precarious and ill-paid annuity, for a fee-simple, with prompt and constant payment. The expression was captivating, and the style of it beautiful; no wonder, therefore, that the House appeared to feel it, and gave tokens of their satisfaction. But, was the position true? Could the benefits that might result from our commercial intercourse, whatever they might turn out, be compared to a fee-simple, with prompt payment? Surely not. What was to insure us the stability and permanency of peace? A commercial treaty with France? No means, Mr. Fox said, appeared to him less likely to procure such an effect. Instead of a fee-simple, with constant payment, the more apt comparison would be an annuity, the payment of which was liable to frequent interruption. Did history encourage us to expect a long duration of peace? or were we weak enough to imagine that France, from her present enjoyment of uncommon power, was therefore less likely to break with us? Let former precedents teach a better prudence. Refer to the records of the best and most authentic historians, and it would be found that France was most inclined to preserve peace, when she was most humiliated and degraded. This country had been often charged with having borne herself arrogantly and dictatorially after the close of a triumphant war; but, had it ever been said, that success checked the pride, or reduced the overweening ambition of France? Past experience proved, that whenever France saw this country weak,

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and thought her incapable of effectually resisting, she seized the opportunity, and aimed at effecting her long-desired destruction. What prompted her to commence her hostile attacks at the beginning of the war preceding the last? The occasion was flattering, it promised easy success, and the opportunity was irresistible. A similar opportunity would, doubtless, produce similar consequences. It was idle, therefore, to suppose that France, who had really had such frequent reason to consider Great Britain as her most powerful rival, and had received so many checks from her, that she had long wished to annihilate her as a state whose enmity was to be dreaded, would all of a sudden forget her resentment, and, just at that moment when there appeared to be the least rational motive to prompt her, abandon a purpose she had long and uniformly endeavoured to achieve.

Mr. Fox observed, that his Majesty had been graciously pleased to declare in his speech, that a copy of the Treaty should be laid before the House. That instrument alone, he believed, would neither enable the House nor himself to form any decision upon the propriety of the Treaty. Before the House could justify any vote upon the subject, they would undoubtedly expect to hear from his Majesty's ministers, the state of the various other treaties at this time negociating. At present, there were more in agitation than this country perhaps ever had at one time before—the treaty with Russia, the treaty with Spain, and the treaty with Portugal. As ministers had, a twelvemonth ago, boasted of the facility with which the treaty with Russia might be brought to a conclusion, he presumed, that it either was concluded, or so near conclusion, that it might fairly be considered the same as concluded; he would therefore say nothing upon this part of the subject. But it was material to know in what situation the treaty with Portugal stood. Perhaps the present treaty with France virtually annulled and abrogated the treaty with Portugal, commonly known by the name of the Methuen Treaty. It was also important to know how the treaty stood with Spain; because, if the House meant to act as statesmen on the occasion, it was impossible for them to come to any decision respecting the treaty with France, without being fully apprized of the relative situation of every other existing treaty, or treaty that was at present negociating.

In order more strikingly to elucidate this argument, Mr. Fox said, possibly the present connexion with France might operate to the destruction of all our former connexions with other powers so far, that when, at a future period, France might think it worth her while to break with us, we should find ourselves destitute of friends, and universally abandoned. Two years, he observed, had been given in the definitive treaty as the period, by the end of which a commercial treaty with France was obliged to be concluded, clearly that ministers might have time to look about them, to see how old treaties stood with other powers, and to conclude such new ones as appeared most likely to conduce to the interest of Great Britain, before they entered into any treaty with France.

He said, he might possibly be misrepresented both at home and abroad, as a man so far prepossessed by illiberal and vulgar prejudices against France, as to wish never to enter into any connexion with her. Be that as it might, he should not easily forget that those prejudices against France, and that jealousy, which had for years prevailed, of her ambition, had been productive of no bad consequences to this country; on the contrary, that the wars grounded on our alarms at her stretches after inordinate power, and the jealousy which we had entertained of her desire to overturn the balance of power in Europe, had made this country great and glorious. He adverted to the peace of Utrecht, and talked of the bugbear that the ministers of that day had set up to frighten the people into a belief that peace was absolutely necessary, namely, the probability of the House of Austria requiring an improper share of power. He alluded also to the circumstances that characterized the history of Holland, and its present situation, and future prospects.

Speaking of the convention with Spain, for carrying into effect the sixth article of the treaty of peace, he said he did not see, nor could he admit the necessity for entering into any such convention: that the article was sufficiently intelligible, and had ever appeared so to him, though he was aware there had been some doubts stated respecting its proper construction: that the country to be evacuated under the convention was a part of the Musquito coast, that never had, before the treaty, been considered as belonging to the crown of Spain: and that instead of being a mere spot for the cutting of logwood, it was an

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actual British colony. To oblige the inhabitants and settlers, therefore, to evacuate it by February, would be an act of the most horrible injustice, because it would be to oblige them to quit their possessions before they could reap the fruits of their industry, which must, in that case, be left in the ground. Mr. Fox descanted upon this for a considerable time, and asked, for what purpose such a cession could have been made? He should have supposed, he said, that if England had a treaty in hand with the Court of Madrid, and a cession to make which that court was desirous of having made to her, it would have been political to have held back the boon that Spain was anxious to obtain, till after the objects of our wishes, as stipulated for in the treaty negociating, were complied with. Possibly, the cession was made before-hand, in order to put Spain in a humour to grant us what we wanted with the greater cheerfulness.

After animadverting upon this matter with obvious irony, and touching upon a variety of particular matters, to which the treaty with France appeared to him to have a natural and necessary reference, Mr. Fox declared, that he joined most heartily in the congratulation of his Majesty, on an event, that nothing but the phrenzy of a lunatic could have induced, and which it became the character of the nation to act upon exactly as they had done. Having mentioned this in a style that spoke the master of the art of oratory, and intreated the pardon of the House for having taken up so much of their time, which he declared he would not have done had he not thought it necessary to repel the French mode of talking that had fallen from the noble lord who moved, and the hon. gentleman who seconded the Address, and to rescue the nation from being thought liable to such reflections, Mr. Fox concluded with giving an affirmative to the Address.

Mr. *Pitt* expressed his heartfelt satisfaction at discovering that the address would meet with the unanimous concurrence of the House. It would, indeed, have been singularly unfortunate, if an address, commencing as that now under discussion commenced, with the congratulations of the House on his Majesty's most fortunate escape, from an attempt so pregnant with ruin to the country, should be carried otherwise than with one concurring voice. He had equally expected that every other part of the Address would meet with unanimous consent; but he confessed he had not looked for such arguments in support of that unanimity as the right hon. gentleman had thought proper to use. He supposed he must impute it to his own want of clearness and comprehension; but he must allow, that, as far as any thing that had fallen from the right hon. gentleman could have any effect on his mind, it would be to induce him to negative a considerable part of the Address: for the right hon. gentleman had set out with declaring his intention to acquiesce in the motion; and though he had, in the conclusion of his speech, repeated his intention, yet the whole of the intermediate part of what he had said, went to combat the principles of the very measure which he declared himself ready to support. The right hon. gentleman had begun with acknowledging what no man but himself could well think of denying, that the position of his hon. friend who seconded the motion, that peace was preferable to war, and commerce more desirable than conquest, was substantially reasonable and true; and yet he had, with the most elaborate eloquence, endeavoured to prove the direct reverse of each of those propositions. He had laboured also to vindicate this country from the imputation of a too great readiness to engage in schemes of ambition and conquest, and to neglect her commercial concerns, and those benefits that might be derived from peace; but there was no occasion for any such vindication, because the treaty went only to carry into effect the principles of that pacific disposition which the right hon. gentleman had attributed to the general politics of this country, and not to impede and disturb them. The right hon. gentleman had taken great pains to clear himself of the imputation of being governed by vulgar and illiberal prejudices. Such a vindication of himself was surely unnecessary; for, as to illiberal prejudices, no person could charge them on a man of his experience and understanding; and there was no ground whatever for accusing him of vulgar prejudices, as his opinions were so far from being vulgar, that he believed he was the only person in the whole kingdom who entertained them. Might he take the liberty to ask the right hon. gentleman, whether, when using the word 'jealousy,' he was desirous of recommending to this country such a species of political jealousy as should be either mad or blind; such a

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species as should induce her either madly to throw away that which was to make her happy, or blindly to grasp at that which must end in her ruin? Was the necessity of a perpetual animosity with France so evident and so pressing, that for it we were to sacrifice every commercial advantage we might expect from a friendly intercourse with that country? or was a pacific connexion between the two kingdoms so highly offensive, that even an extension of commerce could not counterpoise it? For his part, he could by no means join in opinion with the right hon. gentleman, that the situation of Great Britain and France was such as precluded the possibility of an intercourse; but he was sure if such intercourse was not absolutely impracticable, the treaty now depending was the most likely of any measure to effect it, as it was such a one as would make it the interest of each nation to cherish and preserve the connexion, and would so essentially unite the views and convenience of a large part of each kingdom, as would insure as much as possible the permanence of the system about to be established. The right hon. gentleman had triumphantly foretold the overthrow of this project, should it ever be brought into execution, and had attributed such an event to the overweening ambition of France. He would not take upon himself to answer for the duration of any arrangement whatsoever that could be overturned by the caprices, the errors, or the passions of mankind. He would not say that nations, as well as individuals, might not, as they frequently had done, become subject to the weaknesses inherent in human nature: those imperfections might probably, at one time or other, mingle in the resolutions and discussions of the legislature or councils of either kingdom, and undo what, he flattered himself, was now nearly perfected by the good sense and wisdom of both. How soon such an event might take place he could not possibly foresee; but if war was the greatest of evils, and commerce the greatest felicity which it was possible for a country to enjoy, all which, though contrary to the right hon. gentleman's opinion, he believed was the general sense of the nation, then it became the duty of those to whom the affairs of the public were intrusted, to endeavour as much as possible to render the one permanent, and to remove the prospect of danger to the other. This was the object of the present treaty; for so great were the advantages likely to arise from it, that they would not only strongly operate on the minds of every succeeding administration to avoid a war as long as it could be avoided with honour and prudence, but would also strengthen the resources of the country towards carrying on a war whenever it should become indispensably necessary to engage in one. This was the true method of making peace a blessing; that while it was the parent of immediate wealth and happiness, it should also be the nurse of future strength and security. The quarrels between France and Britain had too long continued to harass not only those two great nations themselves, but had frequently embroiled the peace of Europe. They had, by their past conduct, acted as if they were intended by nature for the destruction of each other; but he hoped the time was come when they would justify the order of the universe, and shew that they were better calculated for the more amiable purposes of friendly intercourse and mutual benevolence. There were many parts of the right hon. gentleman's speech, to which, for the present, he should give no answer, as the only proper and regular method for the right hon. gentleman to obtain the information he required, would be by moving for an address to his Majesty to lay such information before the House; and as to other parts of the right hon. gentleman's inquiries, he could refer him to a much better authority than that which he had called for—the authority of his own senses. The treaty itself was the best source of information on these questions. The right hon. gentleman would there see how far the connexion to be formed between the two countries was to be considered as political, how far as barely commercial; but, for his own part, he confessed that he could not conceive a commercial intercourse between any two nations, that must not necessarily have a powerful effect on their political conduct towards each other. The right hon. gentleman, when Secretary of State, had himself acknowledged the necessity of renewing and strengthening our commercial intercourse with France; nay, he had actually, by an express article of the definitive treaty, bound down the country to make a commercial treaty with France in the course of two years, and the English ambassador, at that time (the duke of Manchester) had taken active steps to bring the French ministry into such a

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scheme. But if it was the intention of the right hon. gentleman to have proposed such a plan as he now seemed to think the only proper one, a plan of a commercial arrangement that should not create an interest in either nation to maintain and render it permanent, such a one as should not be considered by either as equally desirable with a state of hostility and war; if such was his plan, and it was evident that he would not have approved of a different one, he had then acted but prudently in destroying all traces of it, and in taking care not to leave any copy of so very notable a project in his office behind him.

The right hon. gentleman had called upon him to give an account of the part that the French Court might take in the different negociations now carrying on by us with other countries. On that subject he should not think himself bound to give any answer whatsoever, much less would he undertake to account for and explain the different arrangements which the King of France might think proper to make in the various departments of his establishments and expenditures. With respect to the state of our negociations with Portugal, that not being a question before the House, he should by no means enter into it; but if any gentleman should desire to know how far our connexion with Portugal was likely to be affected by the French treaty, he should then think himself bound to satisfy him by one or the other of the following answers, either that the connexion would not be at all affected, or that we were left at full liberty, by the terms of the present treaty, to carry into effect the spirit of the old subsisting treaties with the Court of Portugal. The fact was, that the latter was the case; but he should not hesitate to say, that when the Court of Portugal shewed herself entitled to receive such a benefit at the hands of Great Britain, he should be ready to concur in granting it; but as long as the Court of Portugal continued to withhold from us our proportion of the mutual advantage provided for both nations by the Methuen treaty, as she had done for many years past, so long he should think it the duty of Administration to suspend the execution of that part of the French treaty that left us at liberty to secure to the kingdom of Portugal a continuance of that favour which she had hitherto enjoyed, but to which her present conduct seemed but little to entitle her.—There was one object more on which he should say a few words, and that was the cession of the Musquito shore to the Crown of Spain. Should that measure at any future time be regularly called in question by the right hon. gentleman, he should be able to meet him at a great advantage, as he should enjoy the power of combating the right hon. gentleman on his own grounds. The right hon. gentleman, when in office, and at a time when claims were made by the Crown of Spain upon those territories at the period of the peace, then entered into agreement that they should be ceded to that crown as soon as a certain equivalent should be given. That equivalent had been now adjusted, and it was attended with many advantages, that at the time of making the agreement had not been stipulated, but which the Crown of Spain had been prevailed upon to grant; so that instead of a concession on our part, it would be found to be a very beneficial exchange.

Mr. *Fox* answered, that the right hon. gentleman had endeavoured to represent his conduct in having directed the negociation of the definitive treaty, which, in one of its articles, bound this country to make a commercial treaty with France in two years, as if the preliminaries which that definitive treaty ratified and confirmed had been preliminaries of his negociating. The fact notoriously was, that he had greatly disapproved of several of those preliminaries; but, had he equally disapproved of all of them, he should have considered it to have been his duty to have had them ratified by a definitive treaty, because he thought the honour of this country required that the promises held out to France by the preliminary treaty should be fulfilled. With regard to the sixth article of the treaty with Spain, that stood in a similar situation. He found it negociating when he came into office, and he was therefore obliged to complete it. As to what the right hon. gentleman had said of his project of a commercial treaty with France, he should, at a fit opportunity, feel no difficulty in meeting him on that ground; and in answer to the right hon. gentleman's plausible argument on the subject of employing the time of peace by improving our resources, and his assertion that the commercial treaty with France was likely to prove a nursery and a source of the means of war, he begged him to recollect, that as France was to participate equally in all the advantages

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resulting from the commercial intercourse, the treaty would prove a nursery and a source of her means of war as well as of ours. Upon this ground, therefore, the acquisitions on either side were equal.

The Address was then carried unanimously.—Mr. Burke afterwards gave notice, that he would renew the subject of the impeachment of Mr. Hastings on Thursday se'nnight.

The King's Answer to the Commons Address.] To the Address of the Commons His Majesty returned this Answer:

"Gentlemen; I thank you for this very loyal and dutiful Address. The warm expressions of your affectionate attachment to my person, and the assurances of your intention to apply with diligence to those interesting objects which I have recommended to your consideration, afford me peculiar satisfaction."

Copy of the Treaty of Navigation and Commerce with France.] Jan. 26. Mr. Pitt presented to the House, by his Majesty's command, a Copy of the Treaty of Navigation and Commerce with France; and translation, as follows:

TRANSLATION of the Treaty of Navigation and Commerce between his Majesty and the Most Christian King, signed at Versailles, the 26th of Sept. 1786.

His Britannic Majesty, and his Most Christian Majesty, being equally animated with the desire not only of consolidating the good harmony which actually subsists between them, but also of extending the happy effects thereof to their respective subjects, have thought that the most efficacious means for attaining those objects, conformably to the 18th Article of the Treaty of Peace signed the 6th of Sept. 1783, would be to adopt a system of commerce on the basis of reciprocity and mutual convenience, which, by discontinuing the prohibitions and prohibitory duties which have existed for almost a century between the two nations, might procure the most solid advantages, on both sides, to the national productions and industry, and put an end to contraband trade, no less injurious to the public revenue than to that lawful commerce which is alone entitled to protection. For this end, their said Majesties have named for their commissaries and plenipotentiaries, to wit, the King of Great Britain, William Eden, esq. privy counsellor in Great Britain and Ireland, member of the British Parliament, and his envoy extraordinary and minister plenipotentiary to his Most Christian Majesty; and the Most Christian King, the sieur Joseph Mathias Gerard de Rayneval, knight, counsellor of state, knight of the royal Order of Charles 3, who, after having exchanged their respective full powers, have agreed upon the following Articles:

Art. 1. It is agreed and concluded between the most serene and most potent King of Great Britain, and the most serene and most potent the Most Christian King, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between the subjects of each party, in all and every the kingdoms, states, provinces and territories subject to their Majesties in Europe, for all and singular kinds of goods, in those places, upon the conditions, and in such manner and form as is settled and adjusted in the following Articles.

Art. 2. For the future security of commerce and friendship between the subjects of their said Majesties, and to the end that this good correspondence may be preserved from all interruption and disturbance, it is concluded and agreed, that if, at any time, there should arise any misunderstanding, breach of friendship, or rupture between the crowns of their Majesties, which God forbid! (which rupture shall not be deemed to exist until the re-calling or sending home of the respective ambassadors and ministers) the subjects of each of the two parties residing in the dominions of the other, shall have the privilege of remaining and continuing their trade therein, without any manner of disturbance, so long as they behave peaceably, and commit no offence against the laws and ordinances: and in case their conduct should render them suspected, and the respective governments should be obliged to order them to remove, the term of twelve months shall be allowed them for that purpose, in order that they may remove, with their effects and property, whether entrusted to individuals or to the state. At the same time it is to be understood that this favour is not to be extended to those whose conduct shall be contrary to the public peace.

Art. 3. It is likewise agreed and concluded, that the subjects and inhabitants

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of the kingdoms, provinces, and dominions of their Majesties, shall exercise no acts of hostility or violence against each other, either by sea or by land, or in rivers, streams, ports, or havens, under any colour or pretence whatsoever; so that the subjects of either party shall receive no patent, commission, or instruction for arming and acting at sea as privateers, nor letters of reprisal, as they are called, from any princes or states, enemies to the other party; nor by virtue or under colour of such patents, commissions or reprisals, shall they disturb, infest, or any way prejudice or damage the aforesaid subjects and inhabitants of the King of Great Britain, or of the Most Christian King; neither shall they arm ships in such manner as is above said, or go out to sea therewith. To which end, as often as it is required by either party, strict and express prohibitions shall be renewed and published in all the territories, countries, and dominions of each party wheresoever, that no one shall in anywise use such commissions or letters of reprisal, under the severest punishment that can be inflicted on the transgressors, besides being liable to make full restitution and satisfaction to those to whom they have done any damage: neither shall any letters of reprisal be hereafter granted by either of the said high contracting parties, to the prejudice or detriment of the subjects of the other, except only in such case wherein justice is denied or delayed; which denial or delay of justice shall not be regarded as verified, unless the petition of the person, who desires the said letters of reprisal, be communicated to the minister residing there on the part of the Prince against whose subjects they are to be granted, that within the space of four months, or sooner, if it be possible, he may manifest the contrary, or procure the satisfaction which may be justly due.

Art. 4. The subjects and inhabitants of the respective dominions of the two sovereigns shall have liberty, freely and securely, without licence or passport, general or special, by land or by sea, or any other way, to enter into the kingdoms, dominions, provinces, countries, islands, cities, villages, towns, walled or unwalled, fortified or unfortified, ports, or territories whatsoever, of either Sovereign, situated in Europe, and to return from thence, to remain there, or to pass through the same, and therein to buy and purchase, as they please, all things necessary for their subsistence and use, and they shall mutually be treated with all kindness and favour. Provided, however, that, in all these matters, they behave and conduct themselves conformably to the laws and statutes, and live with each other in a friendly and peaceable manner, and promote reciprocal concord by maintaining a mutual good understanding.

Art. 5. The subjects of each of their said Majesties may have leave and licence to come with their ships, as also with the merchandizes and goods on board the same, the trade and importation whereof are not prohibited by the laws of either kingdom, and to enter into the countries, dominions, cities, ports, places and rivers of either party, situated in Europe, to resort thereto, and to remain and reside there, without any limitation of time; also to hire houses, or to lodge with other persons, and to buy all lawful kinds of merchandizes, where they think fit, either from the first maker or the seller, or in any other manner, whether in the public market for the sale of merchandizes, or in fairs, or wherever such merchandizes are manufactured or sold. They may likewise deposit and keep in their magazines and warehouses, the merchandizes brought from other parts, and afterwards expose the same to sale, without being in anywise obliged, unless willingly and of their own accord, to bring the said merchandizes to the marts and fairs. Neither are they to be burthened with any impositions or duties on account of the said freedom of trade, or for any other cause whatsoever, except those which are to be paid for their ships and merchandizes conformably to the regulations of the present Treaty, or those to which the subjects of the two contracting parties shall themselves be liable. And they shall have free leave to remove themselves, as also their wives, children, and servants, together with their merchandizes, property, goods, or effects, whether bought or imported, wherever they shall think fit, out of either kingdom, by land and by sea, on the rivers and fresh waters, after discharging the usual duties, any law, privilege, grant, immunities, or customs, to the contrary thereof in anywise notwithstanding. In matters of religion, the subjects of the two Crowns shall enjoy perfect liberty: they shall not be compelled to attend Divine service, whether in churches or elsewhere; but, on the contrary, they shall be permitted, without any molestation, to

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perform the exercises of their religion privately in their own houses, and in their own way. Liberty shall not be refused to bury the subjects of either kingdom who die in the territories of the other, in convenient places to be appointed for that purpose; nor shall the funerals or sepulchres of the deceased be in anywise disturbed. The laws and statutes of each kingdom shall remain in force and vigour, and shall be duly put in execution, whether they relate to commerce and navigation, or to any other right, those cases only excepted, concerning which it is otherwise determined in the Articles of this present Treaty.

Art. 6. The two high contracting parties have thought proper to settle the duties on certain goods and merchandizes, in order to fix invariably the footing on which the trade therein shall be established between the two nations. In consequence of which they have agreed upon the following Tariff, viz.

1st. The wines of France, imported directly from France into Great Britain, shall, in no case, pay any higher duties than those which the wines of Portugal now pay. The wines of France, imported directly from France into Ireland, shall pay no higher duties than those which they now pay.

2nd. The vinegars of France, instead of 67*l.* 5*s.* $3\frac{1}{10}$*d.* per ton, which they now pay, shall not, for the future, pay, in Great Britain, any higher duties than 32*l.* 18*s.* $10\frac{9}{10}$*d.* per ton.

3d. The brandies of France, instead of 9*s.* $6\frac{1}{2}\frac{3}{5}$*d.* shall, for the future, pay, in Great Britain, only 7*s.* per gallon, making four quarts, English measure.

4th. Oil of olives, coming directly from France, shall, for the future, pay no higher duties than are now paid for the same from the most favoured nations.

5th. Beer shall pay reciprocally a duty of 30 per cent. *ad valorem.*

6th. The duties on hardware, cutlery, cabinet ware, and turnery, and also all works, both heavy and light, of iron, steel, copper, and brass, shall be classed; and the highest duty shall not exceed 10 per cent. *ad valorem.*

7th. All sorts of cottons manufactured in the dominions of the two Sovereigns in Europe, and also woollens, whether knit or wove, including hosiery, shall pay, in both countries, an import duty of 12 per cent. *ad valorem*; all manufactures of cotton or wool, mixed with silk, excepted, which shall remain prohibited on both sides.

8th. Cambricks and lawns shall pay, in both countries, an import duty of 5*s.* or six livres Tournois, per demi piece of $7\frac{3}{4}$ yards, English measure; and linens, made of flax or hemp, manufactured in the dominions of the two Sovereigns in Europe, shall pay no higher duties, either in Great Britain or France, than linens manufactured in Holland or Flanders, imported into Great Britain, now pay. And linens made of flax or hemp, manufactured in Ireland or France, shall reciprocally pay no higher duties than linens manufactured in Holland, imported into Ireland, now pay.

9th. Sadlery shall reciprocally pay an import duty of 15 per cent. *ad valorem.*

10th. Gauzes of all sorts shall reciprocally pay 10 per cent. *ad valorem.*

11th. Millinery made up of muslin, lawn, cambrick or gauze of every kind, or of any other article admitted under the present tariff, shall pay reciprocally a duty of 12 per cent. *ad valorem*; and if any articles shall be used therein, which are not specified in the tariff, they shall pay no higher duties than those paid for the same articles by the most favoured nations.

12th. Porcelain, earthen ware, and pottery, shall pay reciprocally 12 per cent. *ad valorem.*

13th. Plate-glass and glass ware in general, shall be admitted, on each side, paying a duty of 12 per cent. *ad valorem.*

His Britannic Majesty reserves the right of countervailing, by additional duties on the undermentioned merchandizes, the internal duties actually imposed upon the manufactures, or the import duties which are charged on the raw materials; namely, on all linens or cottons, stained or printed, on beer, glass ware, plate-glass, and iron. And his Most Christian Majesty also reserves the right of doing the same, with regard to the following merchandizes; namely, cottons, iron, and beer.

And for the better securing the due collection of the duties payable *ad valorem*, which are specified in the above tariff, the said contracting parties will concert with each other the form of the declarations to be made, and the proper means of preventing fraud with respect to the real value of the said goods and merchandizes. But if it shall hereafter appear that any mistakes have inadvertently been made in

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the above tariff, contrary to the principles on which it is founded, the two Sovereigns will concert together with good faith upon the means of rectifying them.

Art. 7. The duties above specified are not to be altered but by mutual consent; and the merchandizes not above specified shall pay, in the dominions of the two Sovereigns, the import and export duties payable in each of the said dominions by the most favoured European nations, at the time the present treaty bears date; and the ships belonging to the subjects of the said dominions shall also respectively enjoy therein all the privileges and advantages which are granted to those of the most favoured European nations.

And it being the intention of the two high contracting parties, that their respective subjects should be in the dominions of each other, upon a footing as advantageous as those of other European nations, they agree that, in case they shall hereafter grant any additional advantages in navigation or trade to any other European nation, they will reciprocally allow their said subjects to participate therein, without prejudice however to the advantages which they reserve, viz. France, in favour of Spain, in consequence of the 24th Article of the family compact, signed the 10th of May, 1761; and England according to what she has practised in conformity to, and in consequence of the Convention of 1703, between England and Portugal.

And to the end that every person may know with certainty the state of the aforesaid imposts, customs, import and export duties, whatever they may be, it is agreed that tariffs, indicating the imposts, customs, and established duties, shall be affixed in public places, as well in Rouën and the other trading cities of France, as in London and the other trading cities under the dominion of the King of Great Britain, that recourse may be had to them whenever any difference shall arise concerning such imposts, customs, and duties, which shall not be levied otherwise than in conformity to what is clearly expressed in the said tariffs, and according to their natural construction. And if any officer, or other person in his name, shall, under any pretence, publicly or privately, directly or indirectly, demand or take of a merchant, or of any other person, any sum of money, or any thing else, on account of duties, impost, search, or compensation, although it be under the name of a free gift, or under any other pretence, more or otherwise than what is above prescribed; in such case, the said officer, or his deputy, if he be accused and convicted of the same before a competent judge, in the place where the crime was committed, shall give full satisfaction to the injured party, and shall likewise suffer the penalty prescribed by the laws.

Art. 8. No merchandize exported from the countries respectively under the dominion of their Majesties shall hereafter be subject to be inspected or confiscated, under any pretence of fraud or defect in making or working them, or of any other imperfection whatsoever; but absolute freedom shall be allowed to the buyer and seller to bargain and fix the price for the same, as they shall see good; any law, statute, edict, proclamation, privilege, grant, or custom to the contrary notwithstanding.

Art. 9. Whereas several kinds of merchandizes, which are usually contained in casks, chests, or other cases, and for which the duties are paid by weight, will be exported from and imported into France by British subjects; it is agreed that, in such case, the aforesaid duties shall be demanded only according to the real weight of the merchandizes; and the weight of the casks, chests, and other cases whatever, shall be deducted, in the same manner as has been and is now practised in England.

Art. 10. It is further agreed, that if any mistake or error shall be committed by any master of a ship, his interpreter or factor, or by others employed by him, in making the entry or declaration of her cargo, neither the ship nor the cargo, for such defect, shall be subject to confiscation; but it shall be lawful for the proprietors to take back again such goods as were omitted in the entry or declaration of the master of the ship, paying only the accustomed duties according to the pancart; provided always that there be no manifest appearance of fraud. Neither shall the merchants, or the masters of ships, or the merchandize, be subject to any penalties by reason of such omission, in case the goods omitted in the declaration shall not have been landed before the declaration has been made.

Art. 11. In case either of the two high contracting parties shall think proper to establish prohibitions, or to augment the import duties upon any goods or merchandize of the growth or manufacture

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of the other, which are not specified in the tariff, such prohibitions or augmentations shall be general, and shall comprehend the like goods and merchandizes of the other most favoured European nations, as well as those of either state: and in case either of the two contracting parties shall revoke the prohibitions, or diminish the duties, in favour of any other European nation, upon any goods or merchandize of its growth or manufacture, whether on importation or exportation, such revocations or diminutions shall be extended to the subjects of the other party, on condition that the latter shall grant to the subjects of the former the importation and exportation of the like goods and merchandizes under the same duties; the cases reserved in the 7th article of the present treaty always excepted.

Art. 12. And forasmuch as a certain usage, not authorized by any law, has formerly obtained in divers parts of Great Britain and France, by which French subjects have paid in England a kind of capitation tax, called in the language of that country 'head money;' and English subjects a like duty in France, called 'argent du chef;' it is agreed that the said impost shall not be demanded for the future, on either side, neither under the ancient name, nor under any other name whatsoever.

Art. 13. If either of the high contracting parties has granted, or shall grant, any bounties for encouraging the exportation of any articles, being of the growth, produce, or manufacture of his dominions, the other party shall be allowed to add to the duties already imposed, by virtue of the present treaty, on the said goods and merchandizes, imported into his dominions, such an import duty as shall be equivalent to the said bounty. But this stipulation is not to extend to the cases of restitutions of duties and imposts (called drawbacks) which are allowed upon exportation.

Art. 14. The advantages granted by the present treaty to the subjects of his Britannic Majesty shall take effect, as far as relates to the kingdom of Great Britain, as soon as laws shall be passed there for securing to the subjects of his Most Christian Majesty the reciprocal enjoyment of the advantages which are granted to them by the present treaty. And the advantages granted by all these articles, except the tariff, shall take effect, with regard to the kingdom of Ireland, as soon as laws shall be passed there, for securing to the subjects of his Most Christian Majesty, the reciprocal enjoyment of the advantages which are granted to them by this treaty; and, in like manner, the advantages granted by the tariff shall take effect, in what relates to the said kingdom, as soon as laws shall be passed there for giving effect to the said tariff.

Art. 15. It is agreed, that ships belonging to his Britannic Majesty's subjects, arriving in the dominions of his Most Christian Majesty from the ports of Great Britain or Ireland, or from any other foreign port, shall not pay freight duty, or any other like duty. In the same manner French ships shall be exempted, in the dominions of his Britannic Majesty, from the duty of 5*s.* and from every other similar duty or charge.

Art. 16. It shall not be lawful for any foreign privateers, not being subjects of either Crown, who have commissions from any other prince or state, in enmity with either nation, to arm their ships in the ports of either of the said two kingdoms, to sell what they have taken, or in any other manner whatever to exchange the same; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the nearest port of that prince from whom they have obtained commissions.

Art. 17. When any dispute shall arise between any commander of a ship and his seamen, in the ports of either kingdom, concerning wages due to the said seamen, or other civil causes whatever, the magistrate of the place shall require no more from the person accused, than that he give to the accuser a declaration in writing witnessed by the magistrate, whereby he shall be bound to answer that matter before a competent judge in his own country; which being done, it shall not be lawful either for the seamen to desert their ship, or to hinder the commander from prosecuting his voyage. It shall moreover be lawful for the merchants in the places of their abode, or elsewhere, to keep books of their accounts and affairs, as they shall think fit, and to have an intercourse of letters, in such language or idiom as they shall choose, without any molestation or search whatsoever. But if it should happen to be necessary for them to produce their books of accounts for deciding any dispute or controversy, in such case they shall be obliged to bring into court the entire books or writings, but so as the judge may not have liberty

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to take cognizance of any other articles in the said books, than such as shall relate to the affair in question, or such as shall be necessary to give credit to the said books; neither shall it be lawful, under any pretence, to take the said books or writings forcibly out of the hands of the owners, or to retain them, the case of bankruptcy only excepted. Nor shall the subjects of the king of Great Britain be obliged to write their accounts, letters, or other instruments relating to trade, on stamped paper, except their day-book, which, that it may be properly produced as evidence in any law-suit, ought, according to the laws which all persons trading in France are to observe, to be indorsed and attested gratis by the judge, under his own hand.

Art. 18. It is further agreed and concluded, that all merchants, commanders of ships, and others the subjects of the king of Great Britain, in all the dominions of his Most Christian Majesty in Europe, shall have full liberty to manage their own affairs themselves, or to commit them to the management of whomsoever they please; nor shall they be obliged to employ any interpreter or broker, nor to pay them any salary, unless they shall choose to employ them. Moreover, masters of ships shall not be obliged, in loading or unloading their ships, to make use of those persons who may be appointed by public authority for that purpose, either at Bourdeaux or elsewhere; but it shall be entirely free for them to load or unload their ships by themselves, or to make use of such persons in loading or unloading the same, as they shall think fit, without the payment of any reward to any other whomsoever; neither shall they be forced to unload into other ships, or to receive into their own, any merchandize whatever, or to wait for their lading any longer than they please. And all the subjects of the Most Christian King shall reciprocally have and enjoy the same privileges and liberties, in all the dominions of his Britannic Majesty in Europe.

Art 19. The ships of either party being laden, sailing along the coasts of the other, and being forced by storm into the havens or ports, or making land there in any other manner whatever, shall not be obliged to unlade their goods, or any part thereof, or to pay any duty, unless they, of their own accord, unlade their goods there, and sell some part thereof. But it shall be lawful, permission having been first obtained from those who have the direction of maritime affairs, to unlade and sell a small part of their cargo, merely for the end of purchasing necessaries, either for victualling or refitting the ship; and in that case the whole lading shall not be subject to pay the duties, but that small part only which shall have been taken out and sold.

Art. 20. It shall be lawful for all the subjects of the King of Great Britain, and of the Most Christian King, to sail with their ships, with perfect security and liberty, no distinction being made who are the proprietors of the merchandizes laden thereon, from any port whatever, to the countries which are now or shall be hereafter at war with the King of Great Britain, or the Most Christian King. It shall likewise be lawful for the aforesaid subjects to sail and traffick with their ships and merchandizes, with the same liberty and security, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, and to pass directly not only from the places of the enemy afore-mentioned to neutral places, but also from one place belonging an enemy to another place belonging to to an enemy, whether they be under the jurisdiction of the same or of several princes. And as it has been stipulated concerning ships and goods, that every thing shall be deemed to be free, which shall be found on board the ships belonging to the subjects of the respective kingdoms, although the whole lading, or part thereof, should belong to the enemies of their Majesties, contraband goods being always excepted, on the stopping of which such proceedings shall be had as are conformable to the spirit of the following articles; it is likewise agreed, that the same liberty be extended to persons who are on board a free ship, to the end that, although they be enemies to both or to either party, they may not be taken out of such free ship, unless they are soldiers, actually in the service of the enemies, and on their voyage for the purpose of being employed in a military capacity, in their fleets or armies.

Art. 21. This liberty of navigation and commerce shall extend to all kinds of merchandizes, excepting those only which are specified in the following article, and which are described under the name of contraband.

Art. 22. Under this name of contraband,

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or prohibited goods, shall be comprehended arms, cannon, harquebusses, mortars, petards, bombs, grenades, saucisses, carcasses, carriages for cannon, musket-rests, bandoleers, gunpowder, match, saltpetre, ball, pikes, swords, head-pieces, helmets, cuirasses, halberds, javelins, holsters, belts, horses and harness, and all other like kinds of arms and warlike implements fit for the use of troops.

Art. 23. These merchandizes which follow shall not be reckoned among contraband goods, that is to say, all sorts of cloth, and all other manufactures of wool, flax, silk, cotton, or any other materials, all kinds of wearing-apparel, together with the articles of which they are usually made, gold, silver, coined or uncoined, tin, iron, lead, copper, brass, coals, as also wheat and barley, and any other kind of corn and pulse, tobacco, and all kinds of spices, salted and smoaked flesh, salted fish, cheese and butter, beer, oil, wines, sugar, all sorts of salt, and of provisions which serve for sustenance and food to mankind; also all kinds of cotton, cordage, cables, sails, sailcloth, hemp, tallow, pitch, tar, and rosin, anchors, and any parts of anchors, ship-masts, planks, timber of all kinds of trees, and all other things proper either for building or repairing ships. Nor shall any other goods whatever, which have not been worked into the form of any instrument, or furniture for warlike use, by land or by sea, be reputed contraband, much less such as have been already wrought and made up for any other purpose. All which things shall be deemed goods not contraband, as likewise all others which are not comprehended and particularly described in the preceding article; so that they may be freely carried by the subjects of both kingdoms, even to places belonging to an enemy, excepting only such places as are besieged, blocked up, or invested.

Art. 24. To the end that all manner of dissensions and quarrels may be avoided and prevented, on both sides, it is agreed, that in case either of their Majesties should be engaged in war, the ships and vessels belonging to the subjects of the other shall be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of abode of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the subjects of one of the princes; which passports shall be made out and granted, according to the form annexed to the present treaty: they shall likewise be renewed every year, if the ship happens to return home within the space of a year. It is also agreed, that such ships when laden are to be provided not only with passports as above mentioned, but also with certificates containing the several particulars of the cargo, the place from whence the ship sailed, and whither she is bound, so that it may be known whether she carries any of the prohibited or contraband goods specified in the 22nd article of this treaty; which certificates shall be prepared by the officers of the place from whence the ship set sail, in the accustomed form. And if any one shall think fit to express in the said certificates the person to whom the goods belong, he may freely do so.

Art. 25. The ships belonging to the subjects and inhabitants of the respective kingdoms, coming to any of the coasts of either of them, but without being willing to enter into port, or, being entered, not willing to land their cargoes or break bulk, shall not be obliged to give an account of their lading, unless there are clear grounds of suspicion of their carrying prohibited goods, called contraband, to the enemies of either of the two high contracting parties.

Art. 26. In case the ships belonging to the said subjects and inhabitants of the respective dominions of their most serene Majesties, either on the coast or on the high seas, shall meet with any men of war belonging to their most serene Majesties, or with privateers, the said men of war and privateers, for preventing any inconveniencies, are to remain out of cannon shot, and to send their boats to the merchant ship which may be met with, and shall enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall show his passport, containing the proof of the property of the ship, made out according to the form annexed to this present treaty; and the ship which shall have exhibited the same shall have liberty to continue her voyage, and it shall be wholly unlawful any way to molest or search her, or to chase or compel her to alter her course.

Art. 27. The merchant ships belonging to the subjects of either of the two high contracting parties, which intend to go to a port at enmity with the other Sovereign, concerning whose voyage, and the sort of

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goods on board, there may be just cause of suspicion, shall be obliged to exhibit, as well on the high seas as in the ports and havens, not only her passports, but also her certificates, expressing that the goods are not of the kind which are contraband, as specified in the 22nd article of this treaty.

Art. 28. If, on exhibiting the abovementioned certificates, containing a list of the cargo, the other party should discover any goods of that kind which are declared contraband, or prohibited, by the 22nd article of this treaty, and which are designed for a port subject to his enemies, it shall be unlawful to break up or open the hatches, chests, casks, bales, or other vessels found on board such ship, or to remove even the smallest parcel of the goods, whether the said ship belongs to the subjects of the King of Great Britain or of the Most Christian King, unless the lading be brought on shore, in the presence of the officers of the court of Admiralty, and an inventory made by them of the said goods: nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless after due and lawful process shall have been had against such prohibited goods, and the judges of the Admiralty respectively shall, by sentence pronounced, have confiscated the same, saving always as well the ship itself, as the other goods found therein, which by this treaty are to be accounted free; neither may they be detained on pretence of their being mixed with prohibited goods, much less shall they be confiscated as lawful prize: and if when only part of the cargo shall consist of contraband goods, the master of the ship shall agree, consent, and offer to deliver them to the captor who has discovered them, in such case the captor, having received those goods as lawful prize, shall forthwith release the ship, and not hinder, by any means, from prosecuting her voyage to the place of her destination.

Art. 29. On the contrary it is agreed, that whatever shall be found to be laden by the subjects and inhabitants of either party, on any ship belonging to the enemies of either, although it be not contraband goods, shall be confiscated in the same manner as if it belonged to the enemy himself; except those goods and merchandizes which were put on board such ship before the declaration of war, or the general order for reprisals, or even after such declaration, if it were done within the times following; that is to say, if they were put on board such ship in any port or place, within the space of two months after such declaration, or order for reprisals, between Archangel, St. Petersburgh, and the Scilly Islands, and between the said islands and the city of Gibraltar; of ten weeks in the Mediterranean sea; and of eight months in any other country or place in the world; so that the goods of the subjects of either Prince, whether they be contraband, or otherwise, which, as aforesaid, were put on board any ship belonging to an enemy before the war, or after the declaration of the same, within the time and limits above mentioned, shall no ways be liable to confiscation, but shall well and truly be restored, without delay, to the proprietors demanding the same; provided, nevertheless, that, if the said merchandizes be contraband, it shall not be any ways lawful to carry them afterwards to the ports belonging to the enemy.

Art. 30. And that more abundant care may be taken for the security of the respective subjects of their most serene Majesties, to prevent their suffering any injury by the men of war or privateers of either party, all the commanders of the ships of the King of Great Britain, and of the Most Christian King, and all their subjects, shall be forbid doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall moreover be bound, in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of what nature soever.

Art. 31. For this cause all commanders of privateers, before they receive their patents or special commissions, shall hereafter be obliged to give, before a competent judge, sufficient security by good bail, who are responsible men, and have no interest in the said ship, each of whom shall be bound in the whole for the sum of 36,000 livres Tournois, or 1,500*l.* sterling; or if such ship be provided with above 150 seamen or soldiers, for the sum of 72,000 livres Tournois, or 3,000*l.* sterling, that they will make entire satisfaction for all damages and injuries whatsoever, which they, or their officers, or others in their service, may commit during their cruize, contrary to the tenor of this present treaty, or the edicts made in consequence thereof by their most serene Majesties, under penalty likewise of having

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their patents and special commissions revoked and annulled.

Art. 32. Their said Majesties being willing mutually to treat in their dominions the subjects of each other as favourably as if they were their own subjects, will give such orders as shall be necessary and effectual, that the judgments and decrees concerning prizes in the court of Admiralty be given conformably to the rules of justice and equity, and to the stipulations of this treaty, by judges who are above all suspicion, and who have no manner of interest in the cause in dispute.

Art. 33. And when the quality of the ship, goods, and master, shall sufficiently appear, from such passports and certificates, it shall not be lawful for the commanders of men of war to exact any further proof under any pretext whatsoever. But if any merchant ship shall not be provided with such passports or certificates, then it may be examined by a proper judge, but in such manner as, if it shall be found, from other proofs and documents, that it truly belongs to the subjects of one of the Sovereigns, and does not contain any contraband goods, designed to be carried to the enemy of the other, it shall not be liable to confiscation, but shall be released, together with its cargo, in order to proceed on its voyage.

If the master of the ship named in the passports should happen to die, or be removed by any other cause, and another put in his place, the ships and goods laden thereon shall nevertheless be equally secure, and the passports shall remain in full force.

Art. 34. It is further provided and agreed, that the ships of either of the two nations, re-taken by the privateers of the other, shall be restored to the former owner, if they have not been in the power of the enemy for the space of 24 hours, subject to the payment, by the said owner, of one-third of the value of the ship retaken, and of its cargo, guns, and apparel; which third part shall be amicably adjusted by the parties concerned; but if not, and in case they should disagree, they shall make application to the officers of the Admiralty of the place where the privateer which re-took the captured vessel shall have carried her.

If the ship re-taken has been in the power of the enemy above 24 hours, she shall wholly belong to the privateer which re-took her.

In case of a ship being re-taken by any man of war belonging to his Britannic Majesty, or to his Most Christian Majesty, it shall be restored to the former owner, on payment of the 30th part of the value of such ship, and of its cargo, guns, and apparel, if it was re-taken within the 24 hours, and the 10th part, if it was re-taken after the 24 hours; which sums shall be distributed, as a reward, amongst the crews of the ships which shall have retaken such prize. The valuation of the 30th and 10th parts above mentioned shall be settled conformably to the regulations in the beginning of this article.

Art. 35. Whensoever the ambassadors of either of their said Majesties, or other their ministers having a public character, and residing at the court of the other Prince, shall complain of the injustice of the sentences which have been given, their Majesties shall respectively cause the same to be revised and re-examined in their councils, unless their councils should have already decided thereupon, that it may appear, with certainty, whether the directions and provisions prescribed in this Treaty have been followed and observed. Their Majesties shall likewise take care that this matter be effectually provided for, and that justice be done to every complainant within the space of three months. However, before or after judgment given, and pending the revision thereof, it shall not be lawful to sell the goods in dispute, or to unlade them, unless with the consent of the persons concerned, for preventing any kind of loss; and laws shall be enacted on both sides for the execution of the present article.

Art. 36. If any differences shall arise respecting the legality of prizes, so that a judicial decision should become necessary, the judge shall direct the effects to be unladen, an inventory and appraisement to be made thereof, and security to be required respectively from the captor for paying the costs, in case the ship should not be declared lawful prize; and from the claimant for paying the value of the prize, in case it should be declared lawful; which securities being given by both parties, the prize shall be delivered up to the claimant. But if the claimant should refuse to give sufficient security, the judge shall direct the prize to be delivered to the captor, after having received from him good and sufficient security for paying the full value of the said prize, in case it should be adjudged illegal. Nor shall the execution

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of the sentence of the judge be suspended by reason of any appeal, when the party against whom such appeal shall be brought, whether claimant or captor, shall have given sufficient security for restoring the ship or effects, or the value of such ship or effects, to the appellant, in case judgment should be given in his favour.

Art. 37. In case any ships of war or merchantmen, forced by storms or other accidents, be driven on rocks or shelves, on the coasts of either of the high contracting parties, and should there be dashed to pieces and shipwrecked, all such parts of the said ships, or of the furniture or apparel thereof, as also of the goods and merchandizes, as shall be saved, or the produce thereof, shall be faithfully restored upon the same being claimed by the proprietors, or their factors, duly authorized, paying only the expenses incurred in the preservation thereof, according to the rate of salvage settled on both sides; saving at the same time the rights and customs of each nation, the abolition or modification of which shall however be treated upon, in the cases where they shall be contrary to the stipulations of the present Article; and their Majesties will mutually interpose their authority, that such of their subjects, as shall be so inhuman as to take advantage of any such misfortune, may be severely punished.

Art. 38. It shall be free for the subjects of each party to employ such advocates, attornies, notaries, solicitors, and factors, as they shall think fit; to which end the said advocates and others above mentioned shall be appointed by the ordinary judges, if it be needful, and the judges be thereunto required.

Art. 39. And for the greater security and liberty of commerce and navigation, it is further agreed, that both the King of Great Britain, and the Most Christian King, shall not only refuse to receive any pirates or sea rovers whatsoever into any of their havens, ports, cities, or towns, or permit any of their subjects, citizens, or inhabitants, on either part, to receive or protect them in their ports, to harbour them in their houses, or to assist them in any manner whatsoever; but further, they shall cause all such pirates and sea rovers, and all persons who shall receive, conceal, or assist them, to be brought to condign punishment, for a terror and example to others. And all their ships, with the goods or merchandizes taken by them, and brought into the ports of either kingdom, shall be seized as far as they can be discovered, and shall be restored to the owners, or their factors duly authorized or deputed by them in writing, proper evidence being first given in the court of Admiralty, for proving the property, even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or might have known, that they had been piratically taken. And generally all ships and merchandizes, of what nature soever, which may be taken on the high seas, shall be brought into some port of either kingdom, and delivered into the custody of the officers of that port, that they may be restored entire to the true proprietor, as soon as due and sufficient proof shall have been made concerning the property thereof.

Art. 40. It shall be lawful, as well for the ships of war of their Majesties, as for privateers belonging to their subjects, to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any fee to the officers of the Admiralty, or to any judges whatever; nor shall the said prizes, when they arrive at and enter the ports of their said Majesties, be detained or seized; neither shall the searchers, or other officers of those places, visit or take cognizance of the validity of such prizes; but they shall be at liberty to hoist sail at any time, to depart, and to carry their prizes to the place mentioned in the commissions or patents, which the commanders of such ships of war shall be obliged to shew: on the contrary, no shelter or refuge shall be given in their ports to such as have made a prize upon the subjects of either of their Majesties; but if forced by stress of weather, or the dangers of the sea, to enter therein, particular care shall be taken to hasten their departure, and to cause them to retire from thence as soon as possible, as far as it is not repugnant to former treaties made in this respect with other sovereigns or states.

Art. 41. Neither of their said Majesties shall permit the ships or goods belonging to the subjects of the other to be taken within cannon shot of the coast, or in the ports or rivers of their dominions, by ships of war, or others having commission from any prince, republic, or city whatsoever: but in case it should so happen, both parties shall employ their united force to obtain reparation of the damage thereby occasioned.

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Art. 42. If it be proved that the captor made use of any kind of torture upon the master of the ship, the crew, or others who shall be on board any ship belonging to the subjects of the other party, in such case not only the ship itself, together with the persons, merchandizes, and goods whatsoever, shall be forthwith released, without any delay, and set entirely free, but also such as shall be convicted of so enormous a crime, together with their accomplices, shall suffer the most severe punishment suitable to their offences: this the King of Great Britain and the Most Christian King mutually engage shall be observed, without any respect of persons whatsoever.

Art. 43. Their Majesties shall respectively be at liberty, for the advantage of their subjects trading to the kingdoms and dominions of either of them, to appoint therein national consuls, who shall enjoy the right, immunity, and liberty belonging to them, by reason of their duties and their functions; and places shall hereafter be agreed upon where the said consuls shall be established, as well as the nature and extent of their functions. The Convention relative to this point shall be concluded immediately after the signature of the present Treaty, of which it shall be deemed to constitute a part.

Art. 44. It is also agreed, that in whatever relates to the lading and unlading of ships, the safety of merchandize, goods, and effects, the succession to personal estates, as well as the protection of individuals and their personal liberty, as also the administration of justice, the subjects of the two high contracting parties shall enjoy in their respective dominions the same privileges, liberties, and rights, as the most favoured nation.

Art. 45. If hereafter it shall happen, through inadvertency or otherwise, that any infractions or contraventions of the present Treaty should be committed on either side, the friendship and good understanding shall not immediately thereupon be interrupted; but this Treaty shall subsist in all its force, and proper remedies shall be procured for removing the inconveniencies, as likewise for the reparation of the contraventions: and if the subjects of either kingdom shall be found guilty thereof, they only shall be punished and severely chastised.

Art. 46. His Britannic Majesty and his Most Christian Majesty have reserved the right of revising and re-examining the several stipulations of this Treaty, after the term of twelve years, to be computed from the day of passing laws for its execution in Great Britain and Ireland respectively, to propose and make such alterations as the times and circumstances may have rendered proper or necessary for the commercial interests of their respective subjects; and this revision is to be completed in the space of twelve months; after which term the present Treaty shall be of no effect, but in that event, the good harmony and friendly correspondence between the two nations shall not suffer the least diminution.

Art. 47. The present Treaty shall be ratified and confirmed by his Britannic Majesty and by his Most Christian Majesty, in two months, or sooner, if it can be done, after the exchange of signatures between the plenipotentiaries.

In witness whereof, we the undersigned commissaries and plenipotentiaries of the King of Great Britain and the Most Christian King have signed the present Treaty with our hands, and have set thereto the seals of our arms.—Done at Versailles, the 26th of September, 1786.

WM. EDEN. (L. S.)
GERARD DE RAYNEVAL. (L. S.)

FORM of the Passports and Sea-Letters which are to be granted by the respective Admiralties of the dominions of the two High Contracting Parties, to the Ships and Vessels sailing from thence, pursuant to the 24th Article of the present Treaty.

N. N. To all who shall see these presents, greeting. Be it known that we have granted licence and permission to *N.* of the city (or place) of *N.* master or commander of the ship *N.* belonging to *N.* of the port of *N.* burthen tons or thereabouts, now lying in the port or haven of *N.* to sail to *N.* laden with *N.* the said ship having been examined before her departure, in the usual manner, by the officers of the place appointed for that purpose. And the said *N.* or such other person as shall happen to succeed him, shall produce this licence in every port or haven which he may enter with his ship, to the officers of the place, and shall give a true account to them of what shall have passed or happened during his voyage; and he shall carry the colours, arms, and ensigns of *N.* during his voyage.

In witness whereof, we have signed these presents, and set the seal of our arms

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thereto, and caused the same to be countersigned by *N.* at day of in the year, &c. &c.

Copy of the Convention with Spain.] Mr. Pitt also presented by his Majesty's command,

TRANSLATION of the Convention between his Majesty and the King of Spain. Signed at London, 14th July 1786.

The Kings of England and of Spain, animated with the same desire of consolidating, by every means in their power, the friendship so happily subsisting between them and their kingdoms, and wishing, with one accord, to prevent even the shadow of misunderstanding which might be occasioned by doubts, misconceptions, or other causes of disputes between the subjects on the frontiers of the two monarchies, especially in distant countries, as are those in America, have thought proper to settle, with all possible good faith, by a new convention, the points which might one day or other be productive of such inconveniencies, as the experience of former times has very often shewn. To this end, the King of Great Britain has named the most noble and most excellent lord Francis, baron Osborne of Kiveton, marquis of Carmarthen, his Britannic Majesty's Privy Counsellor, and principal Secretary of State for the department of Foreign Affairs, &c.; and the Catholic King has likewise authorized Don Bernardo del Campo, Knight of the noble Order of Charles the 3rd, Secretary of the same Order, Secretary of the Supreme Council of State, and his Minister Plenipotentiary to the King of Great Britain: who having communicated to each other their respective full powers, prepared in due form, have agreed upon the following Articles:

Art. 1. His Britannic Majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the islands adjacent, without exception, situated beyond the line hereinafter described, as what ought to be the frontier of the extent of territory granted by his Catholic Majesty to the English, for the uses specified in the 3rd Article of the present Convention, and in addition to the country already granted to them in virtue of the stipulations agreed upon by the commissaries of the two Crowns in 1783.

Art. 2. The Catholic King, to prove, on his side, to the King of Great Britain, the sincerity of his sentiments of friendship towards his said Majesty, and the British nation, will grant to the English more extensive limits than those specified in the last Treaty of Peace: and the said limits of the lands added by the present Convention shall for the future be understood in the manner following:

The English line, beginning from the sea, shall take the center of the river Sibun or Jabon, and continue up to the source of the said river; from thence it shall cross in a strait line the intermediate land, till it intersects the river Wallis; and by the center of the same river, the said line shall descend to the point where it will meet the line already settled and marked out by the commissaries of the two Crowns in 1783: which limits, following the continuation of the said line, shall be observed as formerly stipulated by the Definitive Treaty.

Art. 3. Although no other advantages have hitherto been in question, except that of cutting wood for dying, yet his Catholic Majesty; as a greater proof of his disposition to oblige the King of Great Britain, will grant to the English the liberty of cutting all other wood, without even excepting mahogany, as well as gathering all the fruits, or produce of the earth, purely natural and uncultivated, which may besides, being carried away in their natural state, become an object of utility or of commerce, whether for food or for manufactures: but it is expressly agreed, that this stipulation is never to be used as a pretext for establishing in that country any plantation of sugar, coffee, cocoa, or other like articles, or any fabric or manufacture, by means of mills or other machines whatsoever (this restriction however does not regard the use of saw mills, for cutting or otherwise preparing the wood); since all the lands in question being indisputably acknowledged to belong of right to the Crown of Spain, no settlements of that kind, or the population which would follow, could be allowed. The English shall be permitted to transport and convey all such wood, and other produce of the place, in its natural and uncultivated state, down the rivers to the sea, but without ever going beyond the limits which are prescribed to them by the stipulations above granted, and without thereby taking an opportunity of ascending the said rivers beyond their bounds, into the countries belonging to Spain.

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Art. 4. The English shall be permitted to occupy the small island known by the names of Casina, St. George's Key, or Cayo Casina, in consideration of the circumstance of that part of the coasts opposite to the said island being looked upon as subject to dangerous disorders; but this permission is only to be made use of for purposes of real utility: and as great abuses, no less contrary to the intentions of the British government, than to the essential interests of Spain, might arise from this permission, it is here stipulated, as an indispensable condition, that no fortification, or work of defence whatever, shall at any time be erected there, nor any body of troops posted nor any piece of artillery kept there; and in order to verify with good faith the accomplishment of this condition *sine quâ non* (which might be infringed by individuals, without the knowledge of the British Government) a Spanish officer or commissary, accompanied by an English commissary or officer, duly authorized, shall be admitted, twice a year, to examine into the real situation of things.

Art. 5. The English nation shall enjoy the liberty of refitting their merchant ships in the southern triangle included between the point of Cayo Casina and the cluster of small islands which are situated opposite that part of the coast occupied by the cutters, at the distance of eight leagues from the river Wallis, seven from Cayo Casina, and three from the river Sibun; a place which has always been found well adapted to that purpose. For which end, the edifices and storehouses absolutely necessary for that service shall be allowed to be built; but in this concession is also included the express condition of not erecting fortifications there at any time, or stationing troops, or constructing any military works; and in like manner it shall not be permitted to station any ships of war there, or to construct an arsenal, or other building, the object of which might be the formation of a naval establishment.

Art. 6. It is also stipulated, that the English may freely and peaceably catch fish on the coast of the country assigned to them by the last Treaty of Peace, as also of that which is added to them by the present convention; but without going beyond their boundaries, and confining themselves within the distance specified in the preceding Article.

Art. 7. All the restrictions specified in the last Treaty of 1783, for the entire preservation of the right of the Spanish sovereignty over the country, in which is granted to the English only the privilege of making use of the wood of the different kinds, the fruits and other produce, in their natural state, are here confirmed; and the same restrictions shall also be observed with respect to the new grant. In consequence, the inhabitants of those countries shall employ themselves simply in the cutting and transporting of the said wood, and in the gathering and transporting of the fruits, without meditating any more extensive settlements, or the formation of any system of government, either military or civil, further than such regulations as their Britannic and Catholic Majesties may hereafter judge proper to establish, for maintaining peace and good order amongst their respective subjects.

Art. 8. As it is generally allowed that the woods and forests are preserved, and even multiply, by regular and methodical cuttings, the English shall observe this maxim, as far as possible; but if, notwithstanding all their precautions it should happen in course of time that they were in want of dying wood, or mahogany, with which the Spanish possessions might be provided, the Spanish government shall make no difficulty to furnish a supply to the English, at a fair and reasonable price.

Art. 9. Every possible precaution shall be observed to prevent smuggling; and the English shall take care to conform to the regulations which the Spanish government shall think proper to establish amongst their own subjects, in all communications which they may have with the latter; on condition nevertheless that the English shall be left in the peaceable enjoyment of the several advantages inserted in their favour in the last Treaty, or stipulated by the present convention.

Art. 10. The Spanish governors shall be ordered to give to the said English dispersed, all possible facilities for their removal to the settlements agreed upon by the present convention, according to the stipulations of the 6th Article of the Definitive Treaty of 1783, with respect to the country allotted for their use by the said Article.

Art. 11. Their Britannic and Catholic Majesties, in order to remove every kind of doubt with regard to the true construction of the present convention, think it necessary to declare that the conditions of the said convention ought to be observed

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according to their sincere intention to ensure and improve the harmony and good understanding, which so happily subsist at present between their said Majesties.

In this view, his Britannic Majesty engages to give the most positive orders for the evacuation of the countries abovementioned, by all his subjects of whatever denomination: but if, contrary to such declaration, there should still remain any persons so daring, as to presume, by retiring into the interior country, to endeavour to obstruct the entire evacuation already agreed upon, his Britannic Majesty, so far from affording them the least succour, or even protection, will disavow them in the most solemn manner, as he will equally do those who may hereafter attempt to settle upon the territory belonging to the Spanish dominion.

Art. 12. The evacuation agreed upon shall be completely effected within the space of six months after the exchange of the ratifications of this Convention, or sooner, if it can be done.

Art. 13. It is agreed that the new grants described in the preceding Articles, in favour of the English nation, are to take place as soon as the aforesaid evacuation shall be entirely accomplished.

Art. 14. His Catholic Majesty, prompted solely by motives of humanity, promises to the King of England, that he will not exercise any act of severity against the Mosquitos, inhabiting in part the countries which are to be evacuated, by virtue of the present Convention, on account of the connexions which may have subsisted between the said Indians and the English: and his Britannic Majesty, on his part, will strictly prohibit all his subjects from furnishing arms, or war-like stores, to the Indians in general, situated upon the frontiers of the Spanish possessions.

Art. 15. The two courts shall mutually transmit to each other duplicates of the orders, which they are to dispatch to their respective governors and commanders in America, for the accomplishment of the present Convention; and a frigate, or proper ship of war, shall be appointed, on each side, to observe in conjunction that all things are performed in the best order possible, and with that cordiality and good faith of which the two sovereigns have been pleased to set the example.

Art. 16. The present Convention shall be ratified by their Britannic and Catholic Majesties, and the ratifications exchanged, within the space of six weeks, or sooner, if it can be done.

In witness whereof, we the undersigned ministers plenipotentiary of their Britannic and Catholic Majesties, in virtue of our respective full powers, have signed the present Convention, and have affixed thereto the seals of our arms.—Done at London, this 14th day of July, 1786.

CARMARTHEN (L. S.)
Le Chev. del CAMPO (L. S.)

At the time of exchanging our sovereigns ratifications of the Convention signed the 14th of July last, we the undersigned ministers plenipotentiary have agreed, that the visit of the English and Spanish commissaries, mentioned in the 4th Article of the said Convention, with respect to the island of Cayo Casina, is to extend in like manner to all the other places, whether in the islands, or on the continent, where the English cutters shall be situated. In witness whereof, we have signed this declaration, and affixed thereto the seals of our arms.—London, this 1st of September, 1786.

CARMARTHEN, (L. S.)
Le Marquis del CAMPO, (L. S.)

Debate in the Commons on the State of the Trade with Portugal.] Jan. 29. Mr. *Minchin* rose, and having observed that the Chancellor of the Exchequer, upon a former occasion, signified to the House his determination of naming as early a day as possible for the consideration of the treaty of navigation and commerce concluded with France, added, that as he conceived that treaty to be only one part of a commercial system adopted by government for the benefit of this country, and that our trade with Portugal was also a necessary and material part of that system, he wished to know what the state of our trade with that country had been for the last ten years, before he was called upon to give a vote upon the treaty with France. He then moved, "That an account of the quantity of woollen goods exported from the port of London to Portugal, between the 1st Jan. 1777, and the 1st Jan. 1787, be laid before the House."

Mr. *Pitt* hoped the House would do him the justice to believe, that he did not entertain the most distant intention of objecting either to the present motion, or to any other which might be thought likely to afford information, but he greatly feared

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that the object would be by no means satisfactorily answered, were the motion carried. Before the House came to the consideration of the commercial treaty with France, it would be absolutely necessary for a great deal more information with respect to the trade with Portugal to be laid before them, than the present motion was likely to reach. It was, indeed, his intention to lay all the information upon the subject which his Majesty's ministers could obtain, before the House. Gentlemen were not unapprized that a treaty was at this moment in negociation with the court of Portugal, and that it was daily expected that the person who was well known to have been some time absent from London upon that business, would either return or send home such intelligence as would enable his Majesty's servants to do their duty in this respect. In order the more fully to ascertain the true state of the trade of this country with Portugal, the gentleman sent to negociate the pending treaty, was instructed to exert his utmost endeavours to get at that object, and the better to attain the end desired in this respect, the factory in Portugal had been written to, and called upon to furnish all the information they could give upon the subject. Thus all the possible lights would be given that the nature of the case would admit of. If it should so happen, that the expected accounts should not arrive in time, it was to be remarked, that this country had it in her power to continue to Portugal the advantages in point of trade, that she had till this time enjoyed, even after Parliament should have come to a resolution, approving of the commercial treaty with France.

Mr. *Fox* said, the former part of the right hon. gentleman's speech so perfectly coincided with his ideas, that he was sorry to find, if he had understood him correctly in the latter part of what he had said, that there should be any occasion for him to differ in opinion with him. In the former part of the right hon. gentleman's speech he had conceived him to admit, that before the House would be competent to come to any vote of approbation of the commercial treaty with France, it would be absolutely necessary for them to have before them all the information possible, relative to the present state of our trade with Portugal, and with that view he had understood the right hon. gentleman to have wished the motion not to be pressed. His objection to the motion, Mr. Fox said, was, that it really could not produce the information wished for. Custom-house returns to the orders of that House, to say the truth, produced, for the most part, a sort of information scarcely good for any thing; but even were it likely for those returns, in the present case, to be made up with unusual exactness, it was impossible that the information they afforded, could throw any material light upon the extent of the trade of this country with Portugal, because the returns of the Custom-house of the port of London could not, in his mind, comprehend one half, nor one third, nor scarcely a fourth of the whole of the trade between Great Britain and Portugal. With regard to what the right hon. gentleman had said in the latter part of his speech, as to its being proper for that House, in case of the failure of the arrival of the information expected by his Majesty's ministers from Portugal, to proceed to a resolution of approbation of the commercial treaty with France, there he must differ with the right hon. gentleman altogether. He meant not at that time to forestall a future debate, or to enter prematurely into the discussion of subjects which had better be reserved for a fitter time; but he could not too early declare, that before he could make up his mind upon the French treaty, which in effect implied, or rather amounted to a breach of the treaty with Portugal, commonly called the Methuen Treaty, he must know how the trade between this kingdom and Portugal stood. That a treaty was pending with Portugal was well known, and report said, that it was near being brought to a conclusion, but terminated it must be one way or another, before they decided upon the treaty with France. Would any man pretend that the two considerations were not involved in each other, and that the two treaties which subsisted between this country and France, and between this country and Portugal, did not bear a relation to each other? Would not the right hon. gentleman himself think it a reproach were it to be imputed to him, that he had concluded a commercial treaty with France, without attention to our trade with Portugal? That being the case then, and it being undeniable that the treaty with France and the treaty with Portugal bore a relation to each other, it was absurd for any man to contend that the House could decide upon the one without knowing all

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the bearings and tendencies of the other.

Mr. *Pitt* said, that although not in the least more inclined than the right hon. gentleman, to make the commercial treaty a point of immediate discussion, yet if there were any leading points as to the propriety of the day on which they ought to enter into the investigation of it, the nature and extent of the information they ought to have before them, previous to their discussion of it, or any particulars likely to affect the turn of the debate, he should think it for the general accommodation of the House to have those points decided on a day prior to the day of the main debate; and, therefore, if any gentleman had any doubt upon his mind of the description to which he had alluded, he should be glad to know it, that when he submitted to the House the day on which he should wish the treaty to be taken into consideration, a day might at the same time be fixed for the discussion and decision of such doubts. As in a commercial treaty there were necessarily various articles of detail, which required to be ultimately settled by a convention negociated subsequent to the treaty, such a convention had been concluded; but as the ratifications of it had not arrived, he waited merely for their arrival, before he proposed a day for taking the treaty into consideration. The right hon. gentleman had laid down one position with much greater appearance of heat and passion than had been necessary, as it was a position, that it would be difficult to find a man on either side of the House willing to deny; viz. that it was the duty of his Majesty's government, when they negociated a treaty of commerce with France, not to have been inattentive to the consideration of the state of our existing treaty and future trade with Portugal. This was not only true in itself, but it was actually unnecessary for him to say any thing to prove that his Majesty's ministers had been duly attentive to the treaty subsisting with Portugal, and the future trade with that kingdom, when they negociated the commercial treaty with France, because that very treaty upon the face of it bore incontrovertible evidence of their having done so, as it contained an express reserve in favour of Portugal, enabling this country, whenever Portugal shewed herself by her conduct entitled to a continuance of the advantages she enjoyed at our hands by virtue of the Methuen treaty, to secure a continuance of those advantages to that kingdom. The right hon. gentleman had been a little incorrect in his expression, when he had said, that a resolution of the House to carry the commercial treaty with France into execution, would be a breach of the Methuen treaty with Portugal. A breach of that treaty, the carrying the commercial treaty with France into execution, would not amount to, but it would rather put an end to the Methuen treaty; because by that treaty, Portugal stipulated to grant certain advantages to this country so long as this country gave her wines a preference by admitting them under duties specifically lower than those paid by the wines of other countries. Though it were to be wished that Mr. Fawkener might return from Portugal, and bring with him the expected agreement of that Court to the treaty in negociation, or an account that the negociation was terminated one way or another, prior to the day of discussion of the French treaty, yet the House might fairly come to a resolution of approbation of the treaty with France, as that treaty contained a clause of reserve, enable Great Britain to continue to Portugal the advantages she derived from the Methuen treaty, at any subsequent period.

Mr. *Fox* admitted, that a resolution to approve and carry into execution the commercial treaty with France, would rather be a putting an end to the Methuen treaty than a breach of it, but he denied that the two treaties were separate considerations. He urged, that even under that view of the case, and supposing either that Mr. Fawkener had not returned, or that the treaty negociating with Portugal was terminated one way or the other, then the minister ought to make known to that House what his future intentions were with respect to Portugal, before he called upon the House to give their approbation of the treaty with France. He observed, that the moment the commercial treaty had received their sanction, that House was bound in honour and sincerity to proceed to carry it into execution, and as it was an undoubted fact, that an abundant number of speculations were depending and waiting for the execution of the treaty, if the House came to a resolution of approbation, it was their indispensable duty to enact laws for carrying it into execution as soon as possible after the resolution was passed, in order that the various speculations might be realized, and the

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country set at rest respecting it. He held it to be so absolutely necessary, that the House should have before them information of the present state of the trade between this country and Portugal, and of the state in which it would be put after the French treaty was carried into effect, previous to the discussion of that treaty, that he should think it his duty to take the sense of the House on that point previous to the investigation of the general and main question on the treaty itself.

Mr. *Pitt* expressed his astonishment, that the right hon. gentleman should with such uncommon ardour urge the necessity of speedily carrying the treaty into execution, in order to realize the speculations grounded upon it, and yet wish to delay the coming to a resolution respecting it, which was an unavoidable preliminary proceeding. After a resolution of approbation (if such should pass) the forms of the House rendered it impossible to pass any bills in consequence into laws, without their being obliged to go through various stages, which would indispensably take up several days, and occasion much delay. Though Mr. Fawkener might not therefore return or send any intelligence by the time that the resolution might pass, yet, before the Bill relative to wines, which might be grounded upon it, should pass the committee, information might arrive, and then it would be time enough to make the provision in favour of Portugal, should Portugal think proper to entitle herself to favour. But whether any information arrived from Portugal or not, still he held the part of the treaty, respecting French wines, to be a wise measure. He was prepared to declare in either event, that whether the advantages of the Methuen treaty were continued to Portugal or not, it was wise to agree with France as the commercial treaty stipulated.

Mr. *Burke* applauded the candour of the minister, and admitted that he had acted throughout with perfect consistency, but declared, that where a system was bad, in that case consistency was bad also. What struck him as extraordinary was, that the first time any complaints of the non-compliance of Portugal with the terms of the Methuen treaty were breathed in that House, was, when a commercial treaty had been concluded with France. Then and then only did such a matter burst upon them. He was aware that the merchants had complained so long ago as the year 1758, but as a member of parliament he had heard of no complaint till he had heard of the commercial treaty with France. This was a new era, and before the kingdom of Portugal, which the Methuen treaty tied and bound, as it were, to this country, was let loose, and all our connexions with that kingdom, and the benefits which resulted in consequence, for so many years, were abandoned by Great Britain, it behoved that House to act cautiously, to have complete information before them, and to know the full extent of the sacrifice that the right hon. gentleman wished them to make to France, as the price of the advantages expected to result from carrying the commercial treaty into complete execution.

Mr. *W. W. Grenville* said, that although the right hon. gentleman had begun with charging his right hon. friend with inconsistency, yet he had not been able to substantiate the accusation in any other way than by a bare-faced and palpable misrepresentation of his whole speech. For instance, he had endeavoured to give a turn to his right hon. friend's argument, as if he had stated that he looked upon the French treaty as a sacrifice of the present subsisting treaties with Portugal, and vindicated it upon that ground; whereas, in fact, no such sentiment had dropped from him. He had only observed, that the French treaty would in no degree preclude Great Britain from adhering to the spirit of the Methuen treaty, should the court of Portugal shew a disposition to entitle herself to a continuation of the benefits resulting from that treaty, but also, that whether Portugal should or should not come to a proper settlement with this country on the matters at present in dispute between them; in either case the French treaty was a most wise and beneficial object. Extraordinary, indeed, was the assertion of the right hon. gentleman, (Mr. Burke) that he never had, until that day, been apprised of any defection on the part of Portugal, from the provisions and spirit of the Methuen treaty. It was impossible for any gentleman, who had paid so much attention to the commercial concerns of this country, to be ignorant of a circumstance so universally known, as that repeated complaints had been made of the ineffectual manner in which that treaty had been carried into execution on the part of Portugal, so far back as the year 1767, from which period that country had been gradually departing from it more and more.

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But if, indeed, the right hon. gentleman was so unaccountably ignorant of so plain a fact, there was a right hon. gentleman, at no considerably distance from him, who, at least in the knowledge of commercial concerns, could look down upon him with all the consciousness of high pre-eminence.

Mr. *Fox* retorted on Mr. Grenville the charge of misrepresentation made by that gentleman against Mr. Burke. His right hon. friend had not generally said that he knew of no complaints against the court of Portugal, for her infractions of the Methuen treaty, but only declared, that in his parliamentary capacity, as a member of that House, he had never been made acquainted with any such complaints—no such having ever been stated in that House. If any charge of neglect should be made against him for having omitted to bring a business of such consequence before Parliament during the very short time he had been in office, Mr. Fox remarked, it would be at least some kind of excuse for him that the present administration had been guilty of a similar neglect for a much longer period.

Mr. *Francis* declared, that Mr. Burke had barely confined himself to the walls of that House, when he said he was unacquainted with any complaints against the court of Portugal. He added, that nothing could be more absurd than the observation which fell from Mr. Pitt, that the same argument which proved the necessity of following up a resolution with speedy execution, also went to establish the necessity of coming to a speedy resolution. No such conclusion could possibly be drawn, but rather the reverse; for the very nature of execution required speed and activity, that of resolution, deliberation, and foresight, and the necessity of a speedy execution rendered it necessary also to deliberate well before a resolution was formed.

Mr. *Pelham* contended, that it was not strictly proper to limit the question merely to the wine trade with Portugal, for in fact the whole system of our commerce with that country, nay, even the general policy which this country had always pursued with respect to its intercourse with her, would be materially affected by any alteration in the principles and spirit of the Methuen treaty. It would therefore be highly necessary for the House to be fully informed of the true state of that commerce before they proceeded to a subject in which it was so materially involved as in the treaty with France, and he should at a future day move for other papers containing farther information.

Mr. *Burke* observed, that the right hon. gentleman who had thought proper to reprehend him, was so prone to assume a censorial office within those walls that undoubtedly he thought himself peculiarly qualified to act censorially. By superior abilities he was ready to admit him to be qualified; but reprehension was something more than a mere reply, or animadversion upon another's argument; great abilities alone, therefore, were not the only requisites to qualify any man to assume the office of a censor; whoever took upon him to act censorially, ought to take care that his reprehension was governed by a nice and exact regard to justice. The right hon. gentleman had reprehended him for mis-stating a fact; but it so happened, that the reprehension was ill-founded; for he had expressly declared that he had heard of the complaints of the merchants against Portugal so early as the year 1758; but he appealed to the Chair whether it was not sufficient for him to have said within those walls, that he had never heard of them, and whether, parliamentarily considered, that was not speaking correctly.

Mr. *Minchin* said, that under the expectation that more information would be laid before the House than his motion appeared likely to produce, he would, with their leave, withdraw it.

The motion was accordingly withdrawn.

Convention with France.] Feb. 1. Mr. Pitt presented by his Majesty's command, a copy of the Convention with France; and translation, as follows:

TRANSLATION of the Convention between his Majesty and the Most Christian King. Signed at Versailles, the 15th January, 1787.

The King of Great Britain, and the Most Christian King, being willing, in conformity to the 6th and 43rd Articles of the Treaty of Navigation and Commerce signed at Versailles, the 26th of September, 1786, to explain and settle certain points which had been reserved, their Britannic and Most Christian Majesties, always disposed more particularly to confirm the good understanding in which they are happily united, have named, for that purpose, their respective plenipotentiaries, to wit, on the part of his Britannic Majesty, William Eden, esq. Privy Councillor

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in Great Britain and Ireland, member of the British Parliament, and his Envoy Extraordinary and Minister Plenipotentiary to his Most Christian Majesty: and on the part of his Most Christian Majesty, the count de Vergennes, Minister and Secretary of State for the Department of Foreign Affairs, and Chief of the Royal Council of Finances; who, after having communicated to each other their respective full powers, have agreed upon the following articles.

Art. 1. Their Majesties having stipulated in the 6th Article of the said Treaty, "That the duties on hardware, cutlery, cabinet-ware, and turnery, and on all works, both heavy and light, of iron, steel, copper, and brass, shall be classed; and that the highest duty shall not exceed 10 per cent. *ad valorem*," it is agreed, that cabinet-ware and turnery, and every thing that is included under those denominations, as also musical instruments, shall pay 10 per cent. *ad valorem*.—All articles made of iron or steel, pure or mixed, or worked or mounted with other substances, not exceeding in value 60 livres Tournois, or 50 shillings per quintal, shall pay only 5 per cent. *ad valorem*; and all other wares, as buttons, buckles, knives, scissars, and all the different articles included under the description of hardware and cutlery, as also all other works of iron, steel, copper, and brass, pure or mixed, or worked or mounted with other substances, shall pay 10 per cent. *ad valorem*. —If either of the two sovereigns should think proper to admit the said articles, or only some of them, from any other nation, by reason of their utility, at a lower duty, the subjects of the other sovereign shall be allowed to participate in such diminution, in order that no foreign nation may enjoy in this respect any preference to their disadvantage.—The works of iron, steel, copper, and brass above-mentioned, are not to be understood to extend to bar iron or pig iron, or in general to any kind of iron, steel, copper, or brass, in the state of the raw material.

Art. 2. Their Majesties having also stipulated in the 6th article, "That for the better securing the due collection of the duties payable *ad valorem*, which are specified in the tariff, they will concert with each other the form of the declarations to be made, and the proper means of preventing fraud with respect to the real value of the goods and merchandizes," it is agreed that each declaration shall be given in writing, signed by the merchant, owner, or factor, who answers for the merchandizes at their entry; which declaration shall contain an exact list of the said merchandizes, and of their packages, of the marks, numbers, and cyphers, and of the contents of each bale or case, and shall certify that they are of the growth, produce, or manufacture of the kingdom from whence they are imported, and shall also express the true and real value of the said merchandizes, in order that the duties may be paid in consequence thereof. That the officers of the custom-house where the declaration may be made, shall be at liberty to make such examination as they shall think proper of the said merchandizes, upon their being landed, not only for the purpose of verifying the facts alleged in the said declaration, that the merchandizes are of the produce of the country therein mentioned, and that the statement of their value and quantity is exact, but also for that of preventing the clandestine introduction of other merchandizes in the same bales or cases: provided nevertheless, that such examinations shall be made with every possible attention to the convenience of the traders, and to the preservation of the said merchandizes.

In case the officers of the customs should not be satisfied with the valuation made of the merchandizes in the said declaration, they shall be at liberty, with the consent of the principal officer of the customs at the port, or of such other officer as shall be appointed for that purpose, to take the said merchandizes according to the valuation made by the declaration, allowing to the merchant or owner an overplus of 10 per cent. and refunding to him the duties he may have paid for the said merchandizes. In which case, the whole amount shall be paid without delay, by the custom-house of the port, if the value of the effects in question shall not exceed 480 livres Tournois, or 20*l.* sterling: and within fifteen days, at latest, if their value shall exceed that sum.—And if doubts should happen to arise, either respecting the value of the said merchandizes, or the country of which they are the produce, the officers of the customs at the port shall come to a determination thereupon, with all possible dispatch, and no greater space of time shall be employed for that purpose, in any case, than eight days, in the ports where the officers who have the principal direction of the customs reside, and fifteen days in any other port whatsoever.

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It is supposed and understood, that the merchandizes admitted by the present treaty shall be respectively of the growth, produce, or manufacture of the dominions of the two sovereigns in Europe.

To oblige the traders to be accurate in the declarations required by the present article, as also to prevent any doubt that might arise on that part of the tenth article of the said treaty, which provides, that if any of the effects are omitted in the declaration delivered by the master of the ship, they shall not be liable to confiscation, unless there be a manifest appearance of fraud; it is understood that, in such case, the said effects shall be confiscated, unless satisfactory proof be given to the officers of the customs that there was not any intention of fraud.

Art. 3. In order to prevent the introduction of calicoes, manufactured in the East Indies, or in the other countries, as if they had been manufactured in the respective dominions of the two sovereigns in Europe, it is agreed, that the calicoes manufactured in the said dominions for exportation from one country to the other respectively, shall have at the two ends of each piece a particular mark, woven in the piece, to be settled in concert by the two governments, of which mark the respective governments shall give nine months previous notice to the manufacturers; and the said mark shall be altered from time to time, as the case may require. It is further agreed, that until the said precaution can be put in execution, the said calicoes mutually exported, shall be accompanied by a certificate of the officers of the customs, or of such other officer as shall be appointed for that purpose, declaring that they were fabricated in the country from whence they were exported, and also that they are furnished with the marks already prescribed in the respective countries, to distinguish such calicoes from those which come from other countries.

Art. 4. In settling the duties upon cambrics and lawns, it is understood that the breadth should not exceed, for the cambrics, seven-eighths of a yard, English measure (about three quarters of an ell of France) and for the lawns, one yard and a quarter, English measure (one ell of France) and if any shall hereafter be made of a greater breadth than what is above-mentioned, they shall pay a duty of 10 per cent. *ad valorem*.

Art. 5. It is also agreed, that the stipulations in the 18th Article of the Treaty shall not be construed to derogate from the privileges, regulations, and usages already established in the cities or ports of the respective dominions of the two Sovereigns: and further, that the 25th Article of the said Treaty shall be construed to relate only to ships suspected of carrying, in time of war, to the enemies of either of the high contracting parties, any prohibited articles, denominated contraband; and the said Article is not to hinder the examinations of the officers of the customs, for the purpose of preventing illicit trade in the respective dominions.

Art. 6. Their Majesties having stipulated, by the 43rd Article of the said Treaty, that the nature and extent of the functions of the consuls should be determined, 'and that a Convention relative to this point should be concluded immediately after the signature of the present Treaty, of which it should be deemed to constitute a part,' it is agreed that the said ulterior Convention shall be settled within the space of two months, and that, in the mean time, the consuls-general, consuls, and vice-consuls, shall conform to the usages which are now observed, relative to the consulship, in the respective dominions of the two Sovereigns; and that they shall enjoy all the privileges, rights, and immunities belonging to their office, and which are allowed to the consuls-general, consuls, and vice-consuls of the most favoured nation.

Art. 7. It shall be lawful for the subjects of his Britannic Majesty to prosecute their debtors in France, for the recovery of debts contracted in the dominions of his said Majesty, or elsewhere, in Europe, and there to bring actions against them, in conformity to the practice of law in use in the kingdom: provided that there shall be the like usage in favour of French subjects, in the European dominions of his Britannic Majesty.

Art. 8. The Articles of the present Convention shall be ratified and confirmed by his Britannic Majesty, and by his Most Christian Majesty, in one month, or sooner, if it can be done, after the exchange of signatures between the plenipotentiaries.

In witness whereof, we the ministers plenipotentiary have signed the present Convention, and have caused the seals of our arms to be set thereto. Done at Versailles, the 15th of January, 1787.

W. Eden, (L. S.)
Gravier de Vergennes, (L. S.)

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Debate in the Commons on the Articles against Mr. Hastings—Oude Charge.] Feb. 1. On the order of the day being read, for the House to resolve itself into a Committee of the whole House, to consider further of the several articles of charge against Warren Hastings, esq., the House resolved itself into the said Committee, and Mr. St. Andrew St. John having taken his seat as chairman, Nathaniel Middleton, esq. was called, and underwent an examination of two hours continuance by Mr. Sheridan, touching his knowledge of Mr. Hastings's conduct towards the Begums of Oude; after which Mr. Dundas rose to put a few questions to the witness, in order to obtain an explanation of certain sentences of a letter written by Mr. Middleton, from Benares, to Mr. Hastings, on the 26th of December, 1781; but Mr. Middleton in the course of his answers declaring, that if he had an opportunity of referring to his correspondence to refresh his memory he should be able to answer with greater certainty, he was ordered to withdraw, and a conversation took place in consequence of a proposition made by Mr. Dundas, for the chairman to report progress, and when the House was resumed, to make an order for Mr. Middleton's attendance to-morrow, by which time he might be better prepared to answer. The proposition was agreed to, and Sir Elijah Impey was ordered to attend at the same time.

Feb. 2. The House having again resolved itself into the Committee, Mr. Middleton was called in, and underwent a long examination. After the examination had proceeded for some hours, Mr. Pitt expressed his apprehensions that it would be impossible for the evidence to be printed soon enough for the copies to be distributed in time on Monday for the members to have them, so as to enable them to become masters of its tendency, and apply it to the charge, if the charge were that day debated. He, therefore, called on Mr. Sheridan to say whether he would bring forward the charge on Monday under such circumstances, or defer it to a period a little more distant. Mr. Sheridan agreed to postpone his motion to the 7th instant. The committee then proceeded to the examination of Sir Elijah Impey.

Feb. 7. The House having resolved itself into a Committee of the whole House, Mr. St. John in the chair, on the fourth charge against Mr. Hastings, viz. the resumption of the Jaghires and the confiscation of the treasures of the princesses of Oude,

Mr. *Dempster* begged leave, as a preliminary to this important debate, to acquaint the House, that sir Elijah Impey, having fully and coolly revolved in his mind the nature and scope of his former evidence, and assisted his researches by the most accurate examination of his papers, had discovered, that the answers which he gave to some of the questions put to him, during the course of a preceding evening, were less explicit and decisive than he desired to make them, and of course, did not include all that ought to have been submitted to parliamentary consideration; he therefore earnestly wished to embrace an opportunity of setting his evidence to rights; and for that purpose, as well as to save the time of the committee, he had written the explanation which he was desirous of giving upon that paper, that it might be read to the committee. Mr. Dempster then read the paper, the general tendency of which was to authenticate the depositions taken by sir Elijah at Lucknow, by declaring that the translator had been sworn, and had deposed that the translation was authentic and correct.

Mr. *Francis* said, that the explanation did not strike him as being, in all respects, satisfactory; nor, indeed, could he discover how it was possible to put the House into a properly formal possession of the paper which had been just read, unless sir Elijah were called to the bar for the purpose of undergoing another examination.

Mr. *Pitt* contended, that a *viva voce* statement was indispensably requisite. The delivery of this would surely consume but little time; and, therefore, why might not the evidence be called immediately? [Sir Elijah was inquired for, but could not be found.]

Mr. *Sheridan* now rose, and, during the space of five hours and forty minutes, commanded the attention and admiration of the House, by an oration of almost unexampled excellence, uniting the most convincing closeness and accuracy of argument, with the most luminous precision and perspicuity of language; and alternately giving force and energy to truth by solid and substantial reasoning, and enlightening the most extensive and in-

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volved subjects with the purest clearness of logic, and the brightest splendour of rhetoric. Every prejudice, every prepossession was gradually overcome by the force of this extraordinary combination of keen but liberal discrimination; of brilliant yet argumentative wit. It will be a permanent record of Mr. Sheridan's unrivalled abilities, that, on this trying occasion, which, of all others, had divided not only the House of Commons, but the nation at large into a variety of parties, this memorable speech produced almost universal union. It is utterly impossible to attempt more than an outline of this unprecedented exertion of talents and judgment. We have endeavoured to prepare a faithful miniature of an unequalled original.

Mr. Sheridan commenced his speech by observing, that had it been possible to have received, without a violation of the established rules of Parliament, the paper which the hon. member (Mr. Dempster) had just now read, he should willingly have receded from any forms of the House, for the purpose of obtaining new lights and farther illustration on the important subject then before them; not, indeed, that, on the present occasion, he found himself so ill prepared, as merely, for this reason, to be prevented from proceeding to the discharge of his duty; neither, to speak freely, was he inclined to consider any explanatory additions to the evidence of sir Elijah Impey so much framed to elucidate, as to perplex and contradict. Needless to his present purpose was it for him to require sir Elijah, legally to recognize what had been read, in his name, by the hon. gentleman. In fact, neither the informality of any subsisting evidence, nor the adducement of any new explanations from sir Elijah Impey, could make the slightest impression upon the vast and strong body of proof which he should now bring forward against Warren Hastings. Yet, if any motive could have so far operated upon him, as to make him industriously seek for renewed opportunities of questioning sir Elijah, it would result from his fresh and indignant recollection of the low and artful stratagem of delivering to the members, and others, in this last period of parliamentary inquiry, printed hand-bills of defence, the contents of which bespoke a presumptuous and empty boast of completely refuting all which, at any time, had, or even could be advanced against Mr. Hastings, on the subject of the fourth article in the general charge of a right hon. member (Mr. Burke). But even this was far beneath his notice. The rectitude and the strength of his cause were not to be prejudiced by such pitiful expedients; nor should he waste a moment in counteracting measures, which, though insidious, were proportionately frivolous and unavailing. Nor would he take up the time of the committee with any general arguments to prove, that the subject of the charge which it fell to his lot to bring forward, was of great moment and magnitude. The attention which Parliament had paid to the affairs of India, for many sessions past, the voluminous productions of their committees on that subject, the various proceedings in that House respecting it, their own strong and pointed resolutions, the repeated recommendation of his Majesty, and their reiterated assurances of paying due regard to those recommendations, as well as various acts of the legislature, were all of them undeniable proofs of the moment and magnitude of the consideration, and incontrovertibly established this plain, broad fact, that Parliament directly acknowledged that the British name and character had been dishonoured and rendered detested throughout India, by the malversation and crimes of the principal servant of the East India Company. That fact having been established beyond all question by themselves, and by their own acts, there needed no argument, on his part, to induce the committee to see the importance of the subject about to be discussed upon that day, in a more striking point of view than they themselves had held it up to public observation. There were, he knew, persons without doors who affected to ridicule the idea of prosecuting Mr. Hastings, and who not inconsistently redoubled their exertions, in proportion as the prosecution became more serious, to increase their sarcasms upon the subject, by asserting that Parliament might be more usefully employed; that there were matters of more immediate moment to engage their attention; that a commercial treaty with France had just been concluded, and that it was an object of a vast and comprehensive nature, and of itself sufficient to engross their attention. To all this he would oppose these questions. Was Parliament misspending its time, by inquiring into the oppressions practised on millions of unfortunate persons in India, and endeavouring to bring

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the daring delinquent, who had been guilty of the most flagrant acts of enormous tyranny and rapacious peculation, to exemplary and condign punishment? Was it a misuse of their functions to be diligent in attempting, by the most effectual means, to wipe off the disgrace affixed to the British name in India, and to rescue the national character from lasting infamy? Surely no man who felt either for the one or the other would think a business of greater moment or magnitude could occupy his attention, or that the House could with too much steadiness, too ardent a zeal, or too industrious a perseverance, pursue its object. Their conduct in this respect, during the course of the preceding year, had done them immortal honour, and proved to all the world, that however degenerate an example of Englishmen some of the British subjects had exhibited in India, the people of England collectively, speaking and acting by their representatives, felt, as men should feel on such an occasion, that they were anxious to do justice, by redressing injuries, and punishing offenders, however high their rank, however elevated their station.

Their indefatigable exertions in committees appointed to inquire concerning the affairs of India, their numerous, elaborate, and clear reports, their long and interesting debates, their solemn addresses to the throne, their rigorous legislative acts, their marked detestation of that novel and base sophism in the principles of judicial inquiry, (constantly the language of the governor-general's servile dependents!) that crimes might be compounded, that the guilt of Mr. Hastings was to be balanced by his successes, that fortunate events were a full and complete set-off against a system of oppression, corruption, breach of faith, peculation, and treachery; and finally, their solemn and aweful judgment that, in the case of Benares, Mr. Hastings's conduct was a proper object of parliamentary impeachment, had covered them with applause, and brought them forward in the face of all the world, as the objects of perpetual admiration. Not less unquestionably just than highly virtuous was the assertion of the Commons of Great Britain, that there were acts which no political necessity could warrant, and that amidst flagrancies of such an inexpiable description, was the treatment of Cheit Sing. To use the well-founded and emphatic language of a right hon. gentleman (Mr. Pitt) the committee had discovered in the administration of Mr. Hastings, proceedings of strong injustice, of grinding oppression and unprovoked severity. In this decision the committee had also vindicated the character of his right hon. friend, (Mr. Burke) from the slanderous tongue of ignorance and perversion. They had, by their vote on that question, declared, that the man who brought the charges was no false accuser; that he was not moved by envy, by malice, nor by any unworthy motives to blacken a spotless name; but that he was the indefatigable, persevering, and, at length, successful champion of oppressed multitudes, against their tyrannical oppressor. With sound justice, with manly firmness, with unshaken integrity, had his right hon. friend upon all occasions resisted the timid policy of mere remedial acts—even the high opinion of Mr. Hastings's successor, even the admitted worth of lord Cornwallis's character, had been deemed by his right hon. friend, an inadequate atonement to India for the injuries so heavily inflicted on that devoted country. Animated with the same zeal, the committee had, by that memorable vote, given a solemn pledge of their farther intentions. They had audibly said to India: "You shall no longer be seduced into temporary acquiescence, by sending out a titled governor, or a set of vapouring resolutions: it is not with stars, and ribbands, and all the badges of regal favour, that we atone to you for past delinquencies. No: you shall have the solid consolation of seeing an end to your grievances, by an example of punishment for those that have already taken place." The House had set up a beacon, which, while it served to guide their own way, would also make their motions more conspicuous to the world which surrounded and beheld them. He had no doubt but in their manly determination, to go through the whole of the business with the same steadiness which gave such sterling brilliancy of character to their outset, they might challenge the world, to observe and judge of them by the result.

Impossible was it for such men to become improperly influenced by a paper, bearing the signature of "Warren Hastings," and put not many minutes before into their hands, as well as his own, on their entrance into the House. This insidious paper he felt himself at liberty to consider as a second defence, and a second answer to the charge he was about to

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bring forward; a charge replete with proof of criminality of the blackest die, of tyranny the most vile and premeditated, of corruption the most open and shameless, of oppression the most severe and grinding, of cruelty the most unmanly and unparalleled. But he was far from meaning to rest the charge on assertion, or on any warm expressions which the impulse of wounded feelings might produce. He would establish every part of the charge, by the most unanswerable proof, and the most unquestionable evidence; and the witness he would bring forth to support every fact he would state, should be, for the most part, one whom no man would venture to contradict, Warren Hastings himself: yet, this character had friends, nor were they blamable. They might believe him guiltless because he asserted his integrity. Even the partial warmth of friendship, and the emotions of a good, admiring, and unsuspecting heart, might not only carry them to such lengths, but incite them to rise with an intrepid confidence in his vindication. Again would he repeat that the vote of the last session, wherein the conduct of this pillar of India, this corner stone of our strength in the East, this talisman of the British territories in Asia, was censured, did the greatest honour to this House, as it must be the forerunner of speedy justice on that character, which was said to be above censure, and whose conduct we were given to understand was not within the reach even of suspicion; but whose deeds were indeed such as no difficulties, no necessity could justify; for where is the situation, however elated, and in that elevation however embarrassed, that can authorize the wilful commission of oppression and rapacity? If, at any period, a point arose, on which inquiry had been full, deliberate, and dispassionate, it was the present. There were questions on which party conviction was supposed to be a matter of easy acquisition, and if this inquiry were to be considered merely as a matter of party, he should regard it as very trifling indeed; but he professed to God, that he felt in his own bosom the strongest personal conviction, and he was sensible that many other gentlemen did the same. It was on that conviction that he believed the conduct of Mr. Hastings, in regard to the Nabob of Oude and the Begums, comprehended every species of human offence. He had proved himself guilty of rapacity at once violent and insatiable—of treachery cool and premeditated—of oppression useless and unprovoked—of breach of faith unwarrantable and base—of cruelty unmanly and unmerciful—These were the crimes of which, in his soul and conscience, he arraigned Warren Hastings, and of which he had the confidence to say he should convict him. As there were gentlemen ready to stand up his advocates, he challenged them to watch if he advanced one inch of assertion for which he had not solid ground; for he trusted nothing to declamation. He desired credit for no fact which he did not prove, and which he did not indeed demonstrate beyond the possibility of refutation. He should not desert the clear and invincible ground of truth, throughout any one particle of his allegations against Mr. Hastings, who uniformly aimed to govern India by his own arbitrary power, covering with misery upon misery a wretched people, whom Providence had subjected to the dominion of this country; while in the defence of Mr. Hastings, not one single circumstance grounded upon truth was stated. He would repeat the words, and gentlemen might take them down. The attempt at vindication was false throughout.

Mr. Sheridan now pursuing the examination of Mr. Hastings's defence, observed that there could not exist a single plea for maintaining that that defence against the particular charge now before the committee was hasty: Mr. Hastings had had sufficient time to make it up; and the committee saw that he had thought fit to go back as far as the year 1775, for pretended ground of justification from the charge of violence and rapacity. Mr. Sheridan here read a variety of extracts from the defence, which stated the various steps taken by Mr. Bristow in 1775 and 1776, to procure from the Begums aid to the nabob. Not one of these facts, as stated by Mr. Hastings, were true. Groundless, nugatory, and insulting were the affirmations of Mr. Hastings, that the seizure of treasures from the Begums, and the exposition of their pilfered goods to public auction (unparalleled acts of open injustice, oppression, and inhumanity!) were in any degree to be defended by those encroachments on their property, which had taken place previous to his administration, or by those sales which they themselves had solicited as a favourable mode of supplying a part of their aid to the nabob. The relation of a series of plain,

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indisputable facts would irrecoverably overthrow a subterfuge so pitiful, a distinction so ridiculous. It must be remembered, that at that period, the Begums did not merely desire, but they most expressly stipulated, that of the thirty lacks promised, eleven should be paid in sundry articles of manufacture. Was it not obvious, therefore, that the sale of goods, in the first case, far from partaking of the nature of an act of plunder, became an extension of relief, of indulgence, and of accommodation? But however, he would not be content, like Mr. Hastings, with barely making assertions, or when made against his statement, with barely denying them; on the contrary, whenever he objected to a single statement, he would bring his refutation, and almost in every instance Mr. Hastings himself should be his witness. By the passages which he should beg leave to read, Mr. Hastings wished to insinuate, that a claim was set up, in 1775, to the treasure of the Begums, as belonging of right to the Nabob. Mr. Sheridan, from a variety of documents, chiefly from the minutes of the supreme council, of which Mr. Hastings had been the president, explained the true state of that question. Treasure, which was the source of all cruelties, was the original pretence which Mr. Hastings had made to the Company for the proceeding, and through the whole of his conduct he had alledged the principles of Mahomedanism in mitigation of the severities he had sanctioned; as if he meant to insinuate that there was something in Mahomedanism which rendered it impious in a son not to plunder his mother. But to shew how the case precisely stood, when Mr. Hastings began the attacks, Mr. Sheridan read the minutes of general Clavering, colonel Monson, and Mr. Francis, who severally spoke of a claim which had been made by the Nabob on the Bhow Begum, in 1775, amounting to $2\frac{1}{2}$ lacks: the opinion contained in those minutes, was, that women were, on the death of their husbands, entitled by the Mahomedan law only to the property within the zenana where they lived. This opinion was decisive; Mr. Bristow used no threats; no military execution or rigour was even menaced; the Begums complied with the requisition then made, and the disputed property then claimed was given up. After this, the farther treasure, namely that which was within the zenana, was confessedly her own: no fresh right was set up; no pretence was made of any kind to the residue; nay a treaty was signed by the nabob, and ratified by the resident, Mr. Bristow, that, on her paying 30 lacks, she should be freed from all farther application, and the Company were bound by Mr. Bristow to guaranty this treaty. Here, then, was the issue. After this treaty thus ratified, could there be an argument as to the right of the treasure of the Begums? And if the Mahomedan law had ever given a right, was not that right then concluded? To prove, however, the reliance which the princesses of Oude had entertained even in 1775, of receiving protection and support from the British government; an expectation so fatally disappointed in latter times, Mr. Sheridan read an extract of a letter from the Begum, the mother of the Nabob, to Mr. Hastings, received at Calcutta, Dec. 22, 1775, wherein she says, "If it is your pleasure that the mother of the late Nabob, myself, and his other women, and infant children, should be reduced to a state of dishonour and distress, we must submit; but if, on the contrary, you call to mind the friendship of the late blessed Nabob, you will exert yourself effectually in favour of us, who are helpless." And again, "if you do do not approve of my remaining at Fyzabad, send a person here in your name, to remove the mother of the late Nabob, myself, and about 2,000 other women and children, that we may reside with honour and reputation in some other place."

Mr. Sheridan, in a regular progression of evidence, proceeded to state the successive periods, and finally to bring down the immediate subject in question to the day on which Mr. Hastings embraced the project of plundering the Begums; and, to justify which, he had exhibited in his defence four charges against them, as the grounds and motives of his own conduct: 1. That they had given disturbance at all times to the government of the Nabob, and that they had long manifested a spirit hostile to his and to the English government: 2. That they excited the Zemindars to revolt, at the time of the insurrection at Benares, and of the resumption of the Jaghires: 3. That they resisted by armed force the resumption of their own Jaghires: and, 4. That they excited, and were accessary to the insurrection at Benares. To each of these charges, Mr. Sheridan gave distinct and separate an-

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swers. First, on the subject of the imputed disturbances which they were falsely said to have occasioned, he could produce a variety of extracts, many of them written by Mr. Hastings himself, to prove that on the contrary they had particularly distinguished themselves by their friendship for the English, and the various good offices which they had rendered the government. Mr. Hastings left Calcutta in 1781, and proceeded to Lucknow, as he said himself, with two great objects in his mind; namely, Benares and Oude. What was the nature of these boasted resources? That he should plunder one, or both: the equitable alternative of a highwayman, who in going forth in the evening, hesitates which of his resources to prefer, Bagshot, or Hownslow. In such a state of generous irresolution, did Mr. Hastings proceed to Benares and Oude. At Benares he failed, in his pecuniary object. Then, and not till then—not on account of any ancient enmities shown by the Begums—not in resentment for any old disturbances, but because he had failed in one place, and had but two in his prospect, did he conceive the base expedient of plundering these aged women. He had no pretence—he had no excuse—he had nothing but the arrogant and obstinate determination to govern India by his own corrupt will to plead for his conduct. Inflamed by disappointment in his first project, he hastened to the fortress of Chunar, to meditate the more atrocious design of instigating a son against his mother, of sacrificing female dignity and distress to parricide and plunder. At Chunar was that infamous treaty concerted with the Nabob Vizier, to despoil the princesses of Oude of their hereditary possessions. There it was that Mr. Hastings had stipulated with one, whom he called an independent prince, "that as great distress has arisen to the Nabob's government from the military power and dominion assumed by the Jaghiredars, he be permitted to resume such as he may find necessary; with a reserve, that all such, for the amount of whose Jaghires the Company are guarantees, shall, in case of the resumptions of their lands, be paid the amount of their net collections, through the resident, in ready money: and that no English resident be appointed to Furruckabad."

No sooner was this foundation of iniquity thus instantly established, in violation of the pledged faith and solemn guarantee of the British government; no sooner had Mr. Hastings determined to invade the substance of justice, than he resolved to avail himself of her judicial forms; and accordingly dispatched a messenger for the Chief Justice of India, to assist him in perpetrating the violations he had projected. Sir Elijah Impey being arrived, Mr. Hastings, with much art, proposed a question of opinion, involving an unsubstantiated fact, in order to obtain even a surreptitious approbation of the measure he had predetermined to adopt. "The Begums being in actual rebellion, might not the Nabob confiscate their property?" "Most undoubtedly," was the ready answer of the friendly judge. Not a syllable of inquiry intervened, as to the existence of the imputed rebellion, nor a moment's pause as to the ill purposes to which the decision of a Chief Justice might be perverted. It was not the office of a friend to mix the grave caution and cold circumspection of a judge, with an opinion taken in such circumstances: and sir Elijah had previously declared, that he gave his advice not as a judge, but as a friend; a character he equally preferred, in the strange office which he undertook of collecting defensive affidavits on the subject of Benares. Mr. Sheridan said, it was curious to reflect on the whole of sir Elijah's circuit at that perilous time. Sir Elijah had stated his desire of relaxing from the fatigues of office, and unbending his mind in a party of health and pleasure: yet wisely apprehending that very sudden relaxation might defeat its object, he had contrived to mix some objects of business, to be interspersed with his amusements. He had, therefore, in his little airing of 900 miles, great part of which he went post, escorted by an army, selected those very situations where insurrection subsisted, and rebellion was threatened; and had not only delivered his deep and curious researches into the laws and rights of nations, and of treaties, in the capacity of the Oriential Grotius, whom Warren Hastings was to study, but likewise in the humbler and more practical situation of a colletor of *ex parte* evidence: in the former quality, his opinion was the premature sanction for plundering the Begums; in the latter character, he became the posthumous supporter of the expulsion and pillage of the rajah Cheit Sing. Acting on an unproved fact, on a position as ideal as a datum of the duke of Rich-

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mond's fabrication, he had not hesitated, in the first instance, to lend his authority as a licence for unlimited persecution. In the latter, he did not disdain to scud about India, like an itinerant informer, with a pedlar's pack of garbled evidence and surreptitious affidavits. What pure friendship, what a voucher of unequivocal attachment from a British judge to such a character as Warren Hastings! With a generous oblivion of duty and of honour; with a proud sense of having authorized all future rapacity, and sanctioned all past oppression, this friendly judge proceeded on his circuit of health and ease; and while the governor-general, sanctioned by this solemn opinion, issued his orders to plunder the Begums of their treasure, sir Elijah pursued his progress, and passing through a wide region of distress and misery, explored a country that presented a speaking picture of hunger and of nakedness, in quest of objects best suited to his feelings, in anxious search of calamities most kindred to his invalid imagination. Thus, while the executive power in India was perverted to the most disgraceful inhumanities, the judicial authority also became its close and confidential associate; at the same moment that the sword of government was turned to an assassin's dagger, the pure ermine of justice was stained and soiled with the basest and meanest contamination.

Under such circumstances did Mr. Hastings complete the treaty of Chunar; a treaty which might challenge all the treaties that ever subsisted, for containing in the smallest compass the most extensive treachery. Mr. Hastings did not conclude that treaty, till he had received from the nabob a present, or rather a bribe, of 100,000*l*. The circumstances of this present were as extraordinary as the thing itself. Four months afterwards, and not till then, Mr. Hastings communicated the matter to the Company: unfortunately for himself, however, this tardy disclosure was conveyed in words which betray his original meaning; for, with no common incaution, he admits the present "was of a magnitude not to be concealed." Mr. Sheridan stated all the circumstances of this bribe, and averred that the whole had its rise in a principle of rank corruption. For what was the consideration for this extraordinary bribe? No less than the withdrawing from Oude not only all the English gentlemen in official situations, but the whole of the English army; and that, too, at the very moment when he himself had stated the whole country of Oude to be in open revolt and rebellion. Other very strange articles were contained in the same treaty, which nothing but this infamous bribe could have occasioned, together with the reserve which he had in his own mind of treachery to the nabob; for the only part of the treaty which he ever attempted to carry into execution was to withdraw the English gentlemen from Oude. The Nabob, indeed, considered this as essential to his deliverance, and his observation on the circumstance was curious; "for though major Palmer," said he, "has not yet asked any thing, I observe it is the custom of the English gentlemen constantly to ask for something from me before they go." This imputation on the English Mr. Hastings was most ready to countenance as a skreen for his own abandoned profligacy; and therefore, at the very moment that he pocketed the extorted spoils of the Nabob, with his usual grave hypocrisy and cant, "Go" he said to the English gentlemen, "go, you oppressive rascals, go from this worthy unhappy man whom you have plundered, and leave him to my protection. You have robbed him; you have plundered him; you have taken advantage of his accumulated distresses; but, please God, he shall in future be at rest, for I have promised him he shall never see the face of an Englishman again." This, however, was the only part of the treaty which he even affected to fulfil; and, in all its other parts, we learn from himself, that at the very moment he made it, he intended to deceive the nabob; and accordingly he advised general instead of partial resumption, for the express purpose of defeating the first views of the Nabob; and, instead of giving instant and unqualified assent to all the articles of the treaty, he perpetually qualified, explained, and varied them with new diminutions and reservations. Mr. Sheridan called upon gentlemen to say, if there was any theory in Machiavel, any treachery upon record, if they had ever heard of any cold Italian fraud which could in any degree be put in comparison with the disgusting hypocrisy, and unequalled baseness which Mr. Hastings had shewn on that occasion.

After having stated this complicated infamy in terms of the severest reprehension, Mr. Sheridan proceeded to observe, that he recollected to have heard it advanced

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by some of those admirers of Mr. Hastings, who were not so implicit as to give unqualified applause to his crimes, that they found an apology for the atrocity of them in the greatness of his mind. To estimate the solidity of such a defence, it would be sufficient merely to consider in what consisted this prepossessing distinction, this captivating characteristic of greatness of mind. Is it not solely to be traced in great actions directed to great ends? In them, and them alone, we are to search for true magnanimity: to them only can we justly affix the splendid title and honours of real greatness. There was, indeed, another species of greatness, which displayed itself in boldly conceiving a bad measure, and undauntedly pursuing it to its accomplishment. But had Mr. Hastings the merit of exhibiting either of these descriptions of greatness; even of the latter? He saw nothing great, nothing magnanimous, nothing open, nothing direct in his measures, or in his mind. On the contrary, he had too often pursued the worst objects by the worst means. His course was an eternal deviation from rectitude. He either tyrannized or deceived; and was by turns a Dionysius and a Scapin. As well might the writhing obliquity of the serpent be compared to the swift directness of the arrow, as the duplicity of Mr. Hastings's ambition to the simple steadiness of genuine magnanimity. In his mind all was shuffling, ambiguous, dark, insidious, and little: nothing simple, nothing unmixed: all-affected plainness, and actual dissimulation. A heterogeneous mass of contradictory qualities; with nothing great but his crimes, and even those contrasted by the littleness of his motive, which at once denoted both his baseness and his meanness, and marked him for a traitor and a trickster: nay, in his style and writing, there was the same mixture of vicious contrarieties. The most grovelling ideas he conveyed in the most inflated language, giving mock consequence to low cavils, and uttering quibbles in heroics; so that his compositions disgusted the minds's taste as much as his actions excited the soul's abhorrence. Indeed, this mixture of character seemed by some an unaccountable, but inherent quality, to be appropriated, though in inferior degrees, to every thing that concerned his employers. He remembered to have heard an hon. gentleman (Mr. Dundas) remark, that there was something in the first frame and constitution of the Company, which extended the sordid principles of their origin over all their successive operations, connecting with their civil policy, and even with their boldest achievements, the meanness of a pedlar, and the profligacy of pirates. Alike in the political and the military line could be observed auctioneering ambassadors and trading generals: and thus we saw a revolution brought about by affidavits; an army employed in executing an arrest; a town besieged on a note of hand; a prince dethroned for the balance of an account. Thus it was they exhibited a government, which united the mock majesty of a bloody sceptre, and the little traffic of a merchant's counting-house,—wielding a truncheon with one hand, and picking a pocket with the other.

Mr. Sheridan now went into a long statement to shew the various irrefragable proofs exhibited in the minutes of the Bengal council, of the falsity of the charge, that the Begums were the ancient disturbers of the government: and equally to prove that the second charge also, namely, that the Begums had incited the Jaghiredars to resist the Nabob, was no less untrue; it being substantiated in evidence that not one of the Jaghiredars did resist. Mr. Sheridan maintained that it was incontrovertible that the Begums were not concerned either in the rebellion of Bulbudder, or the insurrection at Benares, nor did Mr. Hastings ever once seriously believe them guilty. Their treasures were their treasons, and Asoph ul Dowlah thought like an unwise prince, when he blamed his father for leaving him so little wealth. His father, Sujah ul Dowlah, acted wisely in leaving his son with no temptation about him, to invite acts of violence from the rapacious. He clothed him with poverty as with a shield, and armed him with necessity as with a sword. The third charge was equally false. Did they resist the resumption of their own Jaghiredars? Though if they had resisted, he contended, there would have been no crime, for those Jaghires were by solemn treaty confirmed to them, but on the contrary, there was not one syllable of charge against them. The Nabob himself with all the load of obloquy which he incurred, never imputed to them the crime of stirring up an opposition to his authority, To prove the falsehood of the whole of this charge, and to shew that Mr. Hastings originally projected the

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plunder, that he threw the odium in the first instance on the Nabob, that he imputed the crimes to them before he had received one of the rumours which he afterwards manufactured into affidavits, Mr. Sheridan recommended a particular attention to dates; and he deduced from the papers these facts;—that the first idea was started by Mr. Hastings on the 15th Nov. 1781; that Mr. Middleton communicated it to the Nabob, and procured from him a formal proposition on the 2d Dec.; that on the 1st Dec. Mr. Hastings wrote a letter to Mr. Middleton confirming the first suggestion made through sir Elijah, which letter came into the hands of Mr. Middleton on the 6th Dec. He stated all the circumstances of the pains taken by Mr. Middleton to bring the Nabob at length to issue the Perwannas, and coupled this with the extraordinary minute written by Mr. Hastings on his return to Calcutta, where he stated the resistance of the Begums to the execution of the resumption on the 7th Jan. 1782, as the cause of the measure in Nov. 1781. He then proceeded to prove, that the Begums were by their condition, their age, and their infirmities, almost the only two souls in India who could not have a thought of distressing that government, by which alone they could hope to be protected; and that to charge them with a design to depose their nearest and dearest relation, was equally absurd. He did not endeavour to do this from any idea, that because there was no motive for the offences imputed to these women, it was therefore a necessary consequence that such imputations were false. He was not to learn that there was such a crime as wanton, unprovoked wickedness. Those who entertained doubts on this point need only give themselves the trouble of reading the administration of Mr. Hastings. But, as to the immediate case, the documents on the table would bear incontrovertible testimony that insurrections had constantly taken place in Oude. To ascribe it to the Begums was wandering even beyond the improbabilities of fiction. It were not less absurd to affirm, that famine would not have pinched, nor thirst have parched, nor extermination have depopulated—but for the interference of these old women. To use a strong expression of Mr Hastings on another occasion, "The good which those women did was certain—the ill was precarious." But Mr. Hastings had found it more suitable to his purposes to reverse the proposition; yet wanting a motive for his rapacity, he could find it only in fiction. The simple fact was, their treasure was their treason. But "they complained of the injustice." God of Heaven, had they not a right to complain! After a solemn treaty violated, plundered of all their property, and on the eve of the extremity of wretchedness, were they to be deprived of the last resource of impotent wretchedness—complaint and lamentation! Was it a crime that they should crowd together in fluttering trepidation like a flock of resistless birds on seeing the felon kite, who, having darted at one devoted bird, and missed his aim, singled out a new object, and was springing on his prey with redoubled vigour in his wing, and keener vengeance in his eye? The fact with Mr. Hastings was precisely this: having failed in the case of Cheit Sing, he saw his fate; he felt the necessity of procuring a sum of money somewhere, for he knew that to be the never-failing receipt to make his peace with the directors at home. Such were the true motives of the horrid excesses perpetrated against the Begums! Excesses, in every part of the description of which, he felt himself accompanied by the vigorous support of most unanswerable evidence; and upon this test would he place his whole cause: let gentlemen lay their hands upon their hearts, and with truth issuing, in all its purity, from their lips, solemnly declare whether they were or were not convinced that the real spring of the conduct of Mr. Hastings, far from being a desire to crush a rebellion (an ideal, fabulous rebellion!) was a rapacious determination to seize, with lawless hands, upon the treasures of devoted, miserable, yet unoffending victims.

Mr. Sheridan now adverted to the affidavit made by Mr. Middleton; and after stating how futile were the grounds upon which he had, to the satisfaction of his conscience, proceeded to the utmost extremity of violence against the Begums, he exclaimed,—the God of Justice forbid that any man in this House should make up his mind to accuse Mr. Hastings on the ground which Mr. Middleton took for condemning the Begums; or to pass a verdict of guilty for the most trivial misdemeanor against the poorest wretch that ever had existed! He then animadverted on the affidavits of col. Hannay, col. Gordon, major M'Donald, major Wil-

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liams, and others. Major Williams, among the strange reports that chiefly filled these affidavits, stated one that he had heard; namely, that 50 British troops, watching 200 prisoners, had been surrounded by 6,000 of the enemy, and relieved by the approach of nine men! And of such extraordinary hearsay evidence were most of the depositions composed. Considering, therefore, the character given by Mr. Hastings to the British army in Oude, "that they manifested a rage for rapacity and peculation," it was extraordinary that there were no instances of stouter swearing. But as for col. Gordon, he afforded a flagrantly conspicuous proof of the grateful spirit and temper of affidavits designed to plunge these wretched women in irretrievable ruin. Col. Gordon was, just before, not merely released from danger, but preserved from imminent death by the very person whose accuser he thought fit to become; and yet, incredible as it may appear, even at the expiration of two little days from his deliverance, he deposes against the distressed and unfortunate woman who had become his saviour, and only upon hearsay evidence accuses her of crimes and rebellion. Great God of Justice! (exclaimed Mr. Sheridan) canst thou from thy eternal throne look down upon such premeditated turpitude of heart, and not fix some mark of dreadful vengeance upon the perpetrators? Of Mr. M'Donald, he said, that he liked not the memory which remembered things better at the end of five years than at the time, unless there might be something so relaxing in the climate of India, and so affecting the memory as well as the nerves, "the soft figures melting away," and the images of immediate action instantaneously dissolving, men must return to their native air of England, to brace up the mind as well as the body, and have their memories, like their sinews, restrung.

Having painted the loose quality of the affidavits, he said, that he must pause a moment, and particularly address himself to one description of gentlemen, those of the learned profession, within those walls. They saw that that House was the path to fortune in their profession; that they might soon expect that some of them were to be called to a dignified situation, where the great and important trust would be reposed in them of protecting the lives and fortunes of their fellow subjects. One learned gentleman, in particular (sir Lloyd Kenyon) if rumour spoke right, might suddenly be called to succeed that great and venerable character, who long had shone the brightest luminary of his profession, whose pure and steady light was clear even to its latest moment, but whose last beam must now too soon be extinguished. He would ask the supposed successor of lord Mansfield, calmly to reflect on these extraordinary depositions, and solemnly to declare, whether the mass of affidavits taken at Lucknow would be received by him as evidence to convict the lowest object in this country? If he said it would, he declared to God he would sit down, and not add a syllable more to the too long trespass he had made on the patience of the committee.

Mr. Sheridan went farther into the exposure of the evidence, into the comparison of dates, and the subsequent circumstances, in order to prove that all the enormous consequences, which followed from the resumption, in the captivity of the women, and the imprisonment and cruelties practised on their people, were solely to be imputed to Mr. Hastings. After stating the miseries which the women suffered, he said that Mr. Hastings had once remarked, that a mind touched with superstition might have contemplated the fate of the Rohillas with peculiar impressions. But if indeed the mind of Mr. Hastings could yield to superstitious imagination; if his fancy could suffer any disturbance, and even in vision, image forth the proud spirit of Sujah Dowlah, looking down upon the ruin and devastation of his family, and beholding that palace which Mr. Hastings had first wrested from his hand, and afterwards restored, plundered by that very army with which he himself had vanquished the Mahrattas; seizing on the very plunder which he had ravaged from the Rohillas; that Middleton, who had been engaged in managing the previous violations, most busy to perpetrate the last; that very Hastings, whom, on his death-bed, he had left the guardian of his wife and mother, and family, turning all those dear relations, the objects of his solemn trust, forth to the merciless seasons, and to a more merciless soldiery! A mind touched with superstition must indeed, have cherished such a contemplation with peculiar impressions! That Mr. Hastings was regularly acquainted with all the enormities committed on the Begums there was the clearest proof. It was true that Middleton was rebuked for not being more exact. He

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did not, perhaps, descend to the detail; he did not give him an account of the number of groans which were heaved; of the quantity of tears which were shed; of the weight of the fetters; or of the depth of the dungeons; but he communicated every step which he took to accomplish the base and unwarrantable end. He told him, that to save appearances they must use the name of the Nabob, and that they need go no farther than was absolutely necessary; this he might venture to say without being suspected by Mr. Hastings of too severe a morality. The governor-general also endeavoured to throw a share of the guilt on the council, although Mr. Wheeler had never taken any share, and Mr. Macpherson had not arrived in India when the scene began. After contending that he had shrunk from the inquiry ordered by the Court of Directors, under a new and pompous doctrine, that the Majesty of Justice was to be approached with supplication, and was not to degrade itself by hunting for crimes, forgetting the infamous employment to which he had appointed an English Chief Justice to hunt for criminal charges against innocent defenceless women, Mr. Sheridan said, he trusted that that House would vindicate the insulted character of justice; that they would demonstrate its true quality, essence, and purposes—that they would prove it to be, in the case of Mr. Hastings, active, inquisitive, and avenging.

Mr. Sheridan remarked, that he had heard of factions and parties in that House, and knew they existed. There was scarcely a subject upon which they were not broken and divided into sects. The prerogative of the Crown found its advocates among the representatives of the people. The privileges of the people found opponents even in the House of Commons itself. Habits, connexions, parties, all led to diversity of opinion. But when inhumanity presented itself to their observation, it found no division among them, they attacked it as their common enemy, and, as if the character of this land was involved in their zeal for its ruin, they left it not till it was completely overthrown. It was not given to that House, to behold the objects of their compassion and benevolence in the present extensive consideration, as it was to the officers who relieved, and who so feelingly describe the extatic emotions of gratitude in the instant of deliverance. They could not behold the workings of the hearts, the quivering lips, the trickling tears, the loud and yet tremulous joy of the millions whom their vote of this night would for ever save from the cruelty of corrupted power. But though they could not directly see the effect, was not the true enjoyment of their benevolence increased by the blessing being conferred unseen? Would not the omnipotence of Britain be demonstrated to the wonder of nations, by stretching its mighty arm across the deep, and saving by its *fiat* distant millions from destruction? And would the blessings of the people thus saved dissipate in empty air? No! If I may dare (said Mr. Sheridan) to use the figure—we shall constitute Heaven itself our proxy, to receive for us the blessings of their pious gratitude, and the prayers of their thanksgiving.—It is with confidence, therefore, Sir, that I move you on this charge, "That Warren Hastings, esq. be impeached."

On the conclusion of Mr. Sheridan's speech, he sat down, the whole House, the members, peers, and strangers, involuntarily joined in a tumult of applause, and adopted a mode of expressing their approbation, new and irregular in that House, by loudly and repeatedly clapping with their hands. After a considerable suspension of the debate,

Mr. *Burgess* rose and said:—Sir; after such a wonderful display of eloquence, such a matchless exertion of ability, unequalled probably in this or in any other assembly; after the attention of the committee has been engaged and fascinated for more than five hours and an half, it is not only a most arduous task, but it is a presumption of no common nature, to dare to arise, even though in the cause of justice, and in defence of a great and injured man. How great indeed must be my presumption, rising as I do, for the first time, within these walls, unused to parliamentary discussions, and weighed down by those apprehensions which naturally must affect a man who dates his parliamentary existence from a period no longer ago than last Wednesday. Sensible of these disadvantages, I yet will not apologize, nor will I supplicate for indulgence. If, in such a cause, any man can prefer his feelings to a conscientious discharge of his duty, he deserves not the honour of sitting here to determine on a question so nearly concerning the interests and honour of a distinguished fellow subject, so material to the interests and honour of this country. I am most happy, Sir, that

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it falls to my lot to give my first voice in Parliament in vindication of a man, who has extended the glory of this country farther than any man who has preceded him, and to whom, while we are listening to accusations against him, all Europe and all the world look up with astonishment and veneration.—Let it not be supposed, Sir, that any motives but these influence me. To Mr. Hastings I am an absolute stranger: I never saw him, nor ever had I the slightest communication or correspondence with him: but I am not ignorant of his character; I am not unacquainted with his services; nor am I less assured of the combination formed to oppress him; to defeat his great and well-founded hopes of honours and of thanks; and to wipe off, by his persecution, that stigma which the suppression of former prosecutions has brought upon certain individuals. The hon. gentleman who so ably has opened, this charge set out with commenting upon the undue methods used by Mr. Hastings to influence the minds of those who now sit as judges upon his conduct. The generality of the accusation has been reduced to one fact—a paper, signed Warren Hastings, containing a vindication of his conduct, was delivered this day in the lobby. He has not told us the contents of that paper: we do not know whether they were bad or good; nor is there evidence that Mr. Hastings was the author. In answer to this I will say, that various and most atrocious attempts have been made by Mr. Hastings's prosecutors to inflame the minds of this House and of the public against him. This very House has been made the channel of these publications. The tenth Report of the Secret Committee has been re-published, with a preface, open to the perusal of every man, containing the most invidious charges, and evidently calculated to make this appeal to our judgments a matter of party. The very charge now in question, written, as it is well known, by a member of this House, deserves a similar censure. It contains facts, as accusations against Mr. Hastings, which the author must have known could never be applied to him. The first six articles are all of this description. Of these, the first and third relate to transactions bad indeed, and deserving of the severest censure, which were done at a time when Mr. Hastings was in a decided and constant minority; when the whole government of that part of India was in the hands of gen. Clavering, col. Monson, and Mr. Francis, the last of whom now stands forward as an active manager of those accusations, for which, if they are criminal, and I affirm that they are highly criminal, the majority who did them only can be censured. The treaty of Allahabad, confirmed by the treaty of Benares—a treaty made by two great powers, competent to contract, was by them most rashly and unjustly broken, contrary to its express purport, and a new treaty, that of Fyzabad, was by them made; in consequence of which the additional British troops were stationed in the province of Oude, and in consequence of which not only all the evils mentioned in these charges fell upon the Nabob's dominions, but the dissatisfaction of the Begums, the subsequent withdrawing of all the principal persons in that province from us, and the very rebellion in question, took place. I say this in the presence of one of that majority, and I will confirm what I have said by the testimony of Mr. Orde, a gentleman certainly well acquainted with this transaction, who, in this House, affirmed, that the infraction of the treaty of Benares was the most daring and shameful breach of a public treaty he had ever heard of. The second article of the charge accuses Mr. Hastings of having recalled Mr. Bristow, and of having appointed Mr. Middleton his agent at the court of Oude. The answer to this is short and plain. He appointed that man to execute his orders on whom he could depend; on Mr. Bristow he could not. During Mr. Bristow's administration the above circumstance occurred; and, while he continued at Lucknow, it is notorious that the great complaints originated, and the principal mischiefs happened throughout the province. The fourth article accuses Mr. Hastings of having refused to remove the British troops stationed in Oude. If these troops were a grievance, the majority who placed them there must be answerable for it. Mr. Hastings, it is true, did not consent to remove them in 1779; because, as it was a year of war, their sudden removal would have left the province unprotected: but it is equally true, that, in 1781, when similar reasons no longer existed, he did remove them, upon a firm conviction of the iniquity and injustice of their having been stationed there. The fifth article charges Mr. Hastings with having advised the Nabob to extort from the Begums several large sums of money. This is equally untrue

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with the former. The whole transaction, such as it was, was conducted solely by Mr. Bristow, and was not communicated to the council until it was actually completed. Of that council, as I have said, Mr. Hastings was then an inefficient member. The sixth article states as a fact, that the Begums were charged with the maintenance of the late Nabob's women; and this is afterwards enforced by a dismal story of the hardships they underwent in the Zenana. That this supposed fact is untrue is most clearly proved by a letter from the Nabob in 1779, wherein he states, that his affairs were in such a distressed condition, that the women of the late Nabob, his father, to whom, with their children, he had granted only a fourth part of their former appointments, had received nothing for two years.

This, Sir, is the nature of the charges against Mr. Hastings. I must farther observe, that a total absence of dates prevails through those I have noticed: a circumstance which can be calculated merely to deceive the committee, and to make the world imagine that Mr. Hastings had done the things which in fact he ineffectually opposed. The principal charges against Mr. Hastings may be reduced to the following heads:—his concluding the treaty of Chunar, by which the guarantee of the Company was withdrawn, and the jaghires of the Begums were permitted to be resumed:—his instigating or permitting the confiscation of the Begum's treasures;—and the measures which were taken to enforce the payment of sixty lacks of rupees, for which that confiscation was compromised. I will endeavour very briefly to consider these several points, and to prove that not on one of them was Mr. Hastings to be blamed. In September, 1781, Mr. Hastings's situation, as well as the situation of all the English under his government, was most critical. A violent rebellion raged throughout the country: he was obliged to take refuge at Chunar, under the most imminent peril: his resources had totally failed. At this time the Nabob of Oude voluntarily came to his assistance. His conduct was generous and friendly to an extreme: it was such as was calculated to impress with gratitude a generous heart. Mr. Hastings felt and acknowledged the obligation. Impressed with these sentiments on one hand, feeling on the other the urgent necessity of the Company, the immense debt due from the Nabob, amounting to 75 lacks, or nearly 900,000*l.*; convinced by certain testimony that the Begums had rebelled, and had endeavoured the destruction of the English; and wisely considering that the Begums, by their hostile conduct, had dissolved the ties of the treaty, he assented to the Nabob's proposal, and, on the 19th of Sept. 1781, signed the treaty of Chunar.—This treaty consists of two parts; the one containing, among other articles, this of the resumption of the jaghires, with an express stipulation that a full equivalent should be allowed for them, and that the resumption should be general. To ascertain the point of Mr. Hastings's guilt or innocence, it will be necessary to inquire what a jaghire is? whence the jaghires in question originated? how far the Company was bound by the guarantee? and whether the Begums had committed any acts amounting to a breach of their allegiance? A jaghire is properly a rent issuing out of lands conferred on a subject by the sovereign. The lands themselves are usually given as a security; but both the jaghire and the lands on which it is secured are resumable, without equivalent, at the pleasure of the donor. The jaghires in question were precisely of this description. The only pretence which the Begums could set up of an exclusive right to retain them was founded on the agreement entered into between them and the nabob, to which Mr. Bristow added the guarantee of the Company.

In 1776, the situation of the Nabob being almost desperate, owing to the regulations introduced by the majority of the council in 1775, he applied to his mother for part of his father's treasure, to the whole of which he was entitled by the Mahommedan law, but which she obstinately retained. In this application he was strongly supported by the British resident, Mr. Bristow, who, in the most express words, recognized his claim, and, by threats, and even an appearance of violence, compelled the Begum to advance to her son thirty lacks of rupees, or about 360,000*l.* It must be observed, that at this time Mr. Bristow assured the council that the treasures of the late nabob, then in the Begum's hands, amounted to at least 170 lacks, or nearly two millions sterling; consequently she still had remaining at least more than a million and a half, to which, by his own authority, she had no right. On the payment of these 30 lacks, an agreement was made between the Nabob and his mother, that she should

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enjoy, during life, the jaghires which had been granted to her by Sujah ul Dowlah, her late husband, and that no more pecuniary demands should be made upon her. At the same time the Nabob conferred on her new jaghires, amounting to 50,000*l.* per annum. To this agreement Mr. Bristow added the Company's guarantee, for which he had no authority; but which the council afterwards confirmed, from the urgency of the case; the effective majority, however, agreeing with Mr. Bristow, that the Begum had no legal title to the treasures in question.

Within a very short time after this transaction we find it recorded in the minutes of the council, that the Begum had forfeited the protection of the Company by having infringed the treaty they had guaranteed. This was the sentiment of Mr. Bristow, this was the sentiment of colonel Monson and Mr. Francis. At the same time, Mr. Bristow, who was an eye witness of what she did, affirmed that the Begum was disaffected to the English, and pressed her strongly to give up her jaghires for an equivalent, being of opinion that they were likely to become dangerous engines in her hands, and using a very remarkable expression, that two rulers were too much for one country. This early disaffection of the Begums has since been confirmed by the evidence of colonel Stewart at our bar. In spite, however, of all this evidence, and in spite of all suspicions, Mr. Hastings, after he resumed the reins of power in Sept. 1776, sacredly maintained the guarantee of the Company, and actually prevented the Nabob from resuming the jaghires, until, in 1781, such convincing proofs appeared of the destructive nature of these jaghires to the Nabob's revenue, of the danger arising from them to the very existence of his government, and of their having been made the sources of feeding a rebellion both against their sovereign and against the English, that Mr. Hastings no longer thought himself justified in refusing to accede to the Nabob's proposals. He accordingly executed the treaty of Chunar, withdrew the guarantee, and permitted the resumption of the jaghires.

A guarantee is nothing more than an interference of a third power, to secure or to compel the exact and just performance of a treaty entered into by two other powers. From the nature of this definition it appears, that the power guaranteeing is no longer bound than during the continuance of the treaty, and that it is justified in withdrawing its protection from the party infringing the treaty. It farther appears, that the power guaranteeing is bound to support the party who maintains the treaty against the party who breaks it. If it is true that all treaties and mutual compacts between states lose their existence with a state of war, it follows, that, in a state of rebellion, which is the most atrocious species of war, they must be annihilated. The treaty, therefore, between the Nabob and the Begums ceased to exist when the Begums rebelled against him; and as a guarantee depends upon the treaty, the guarantee of the Company ceased also to be binding. That the Begum had broken the treaty, had forfeited her allegiance by levying war, had rebelled against the Nabob, and had endeavoured to extirpate the English, will appear from unquestionable evidence now before the committee. I refer the committee to col. Balfour's letter of the 28th August, 1781, to Mr. Middleton's of the 17th October, to col. Hannay's, major Macdonald's, and lieut. Gordon's depositions, and to sir Elijah Impey's deposition. From all these it clearly appears, that early in September, 1781, the Begums had rebelled against the Nabob; had actually opposed his forces by their own; had entered into Cheit Sing's rebellion; had sent 1,000 armed men to his assistance; and had attempted to extirpate the English.

A farther proof of what I have advanced will arise from the circumstance of the Nabob's arrival at Chunar on the 11th Sept. He certainly was well informed of what had happened in his own dominions; particularly, as he had not been farther from Fyzabad, the principal scene of these disturbances, than 100 miles. That he must have informed Mr. Hastings of what he knew; that he founded his demand of a resumption of the jaghires on that knowledge; that Mr. Hastings was convinced of the necessity of acceding to his proposals, is a fact too plain to require any comment: if it did require any corroboration, the records of the council afford one not to be disputed. On the 18th Sept. the day immediately preceding the execution of the treaty, Mr. Hastings wrote to the council, informing them that the province of Oude had caught the contagion. Under these impressions, the reality of which were afterwards confirmed on oath, Mr. Hastings, knowing what a guarantee

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was, and how far the obligation of it extended, consented to a resumption of the jaghires on the same principle which has invariably directed the councils of princes: but he still manifested the benignity of his temper; he, the tyrannical, the cruel Hastings, the unjust and oppressive governor, when the fate of the Begums depended solely on his *fiat*, when he was justified by the law of nations, and by every principle of policy, absolutely to deprive the Begum of all her possessions, forfeited by her own crimes; he, I say, stipulated with the Nabob, that a full and complete equivalent should be allowed her, and that the resumption of the jaghires should be general. The hon. gentleman has been pleased to ridicule this idea of an equivalent. How could an equivalent exist, said he, when the produce of the jaghires was to be appropriated to the liquidation of the Nabob's debt to the Company? I will tell the hon. gentleman how it could, and how it did exist. The Begums equivalent was to amount to what they themselves gave in as the net amount of their jaghires: their statement, however, for good reasons to be assigned, was false; the net amount, that is, the amount for which they had been given, was much less than the real income from the lands. This net amount was all they had a right to claim: that was secured to them by the treaty; and the surplus was to be appropriated to the discharge of the Nabob's debt.

So far, Sir, have I proved not only the innocence, but the propriety of Mr. Hastings conduct. I am equally prepared to prove, that in his subsequent permission to the Nabob to confiscate the treasures in the hands of his mother, and in the steps taken to enforce the payment of the sixty lacks for which that confiscation was compromised, Mr. Hastings was not only free from blame, but actually commendable. I perceive, however, the present temper of the committee: I am also sensible of the manner in which they have received the first address from a young member, standing here as an advocate for an accused and injured fellow-subject. I leave the reflections upon it to themselves; and I wish the world to reflect, that a British House of Commons, sitting in judgement on the character and fortunes of such a man as Mr. Hastings, has refused to hear his defence. I shall no longer press the matter, but will sit down, reserving what I have farther to say to a cooler moment, when the passions of the House are less inflamed, and when truth may obtain a hearing.

Sir *W. Dolben* having premised that the speech of Mr. Sheridan had stated in so able a manner such a variety of facts and arguments, as entirely to have exhausted the spirits as well as the attention of the committee, added that he thought it would be most proper to adjourn the debate. This would give gentlemen time to recruit their spirits, and to collect their exhausted attention. It was now a very late hour. It would be impossible, should they prosecute the business, to come to any vote without adjourning. And indeed, he confessed, that in the present state of his mind it would be impossible for him to give a determinate opinion. He therefore most seriously recommended that the committee might then immediately adjourn.

Mr. *Stanhope* remarked, that the same reasons which prevailed upon his hon. friend, induced him to wish for an adjournment of the debate. When he entered the House, he was not ashamed to acknowledge that his opinion inclined rather to the side of Mr. Hastings; but such had been the wonderful effect of the hon. gentleman's convincing statement of facts, and irresistible eloquence, that he now with as much freedom acknowledged, that he could not say but his sentiments were materially changed. Nothing, indeed, but information almost equal to a miracle, could, he thought, determine him not to vote against the accused: but, however, as he found such had been the effect of what he had heard, he could not by any means then determine to give his vote. He wished to collect his reason, and calmly to consider the truth and justice of what had been stated with such apparent aid of truth, as to render it beyond the power of contradiction.

Mr. *Fox* said, he could by no means consent to an adjournment, standing as the question in debate then stood. As to the lateness of the night, it was but twelve o'clock; and surely no gentleman would contend, that without any other reason being assigned, merely the lateness of the hour was a sufficient reason. At present the committee had heard a very brilliant speech from his hon. friend; a speech, every word of which carried conviction to his mind; and, it was pretty obvious, it had made no small impression on the minds of the House in general. He flattered himself, therefore, that there was likely to be very little difference of opinion in the House; and,

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in that case, he saw no reason why they could not proceed, and come to the question. If any of the friends of Mr. Hastings wished to rise, and offer any thing, that they might think likely to efface or lessen the impression made by what had fallen from his hon. friend, that was the fit moment for offering it; but as nothing had yet been said that was likely to have that effect, unless gentlemen had any doubts to state, and would be so good as to open them, he must oppose the motion for adjourning under such circumstances, as improper and unprecedented.

Mr. *Taylor* observed, that he had not quitted his seat until seven in the morning on many occasions, and he did not know or recollect one in which he thought his unremitted attendance more required, than the question now before the committee. Such had been the statement of the facts in the speech made by Mr. Sheridan, that he thought no time was necessary beyond the present moment to give their vote. It was a speech of such irresistible conviction, as to render it incontrovertible. It was eloquent in facts, and sublime in genius and conception. It was not the parade of pompous declamation; it convinced from its truth, as much as it charmed and astonished from its splendour and sublimity: therefore, after such a speech had been delivered, he could not consider that any gentleman's mind was so undetermined in its opinions as to require a moment's delay to give his vote, and he would never agree that the House should adjourn until they had decided on the merits or demerits of what they had heard so forcibly, ingeniously, and wonderfully stated for their consideration.

Major *Scott* observed, that he certainly should have risen before to have contradicted many parts of the statements made by Mr. Sheridan, had he not withheld them in compliment to what other gentlemen had to offer. As to there being nothing to be said against the circumstances mentioned, he would himself engage to shew in what the hon. gentleman had been guilty of most gross misrepresentations. In referring to several parts of the correspondence relative to the transactions of the Begums, he had omitted several parts of letters and other documents, contradicting many particulars, which he had asserted. Of these he had taken several notes; and if it were the desire of the committee that he should proceed, he would describe all the omissions and misrepresentations which he had thus noticed. The committee cried Hear! Hear! and major Scott was going consequently to proceed, when

Mr. *Pitt* said, that on a question of so complicated a nature, it was scarcely to be supposed that there would not be some difference of opinion; possibly therefore, although the hour was not so far advanced, as it sometimes had been on former occasions, it might be advisable to adjourn then. For his part, he would not then declare in which way he had made up his mind to vote; yet he meant to deliver his sentiments at large on the motion, and should unavoidably be obliged to take up a good deal of the time of the committee. With regard to the hon. gentleman, all the impression that genius and talents could command, his speech certainly would make; but surely the hon. gentleman's friends paid him an ill compliment in supposing, that four and twenty hours would obliterate the effect, or blunt the pressure of his arguments. An abler speech had, perhaps, never been delivered; but though he was willing to pay that tribute to the hon. gentleman which his abilities deserved, he by no means could agree, that because one dazzling speech had been delivered, other gentlemen ought not to be permitted to deliver their sentiments.

Mr. *Fox* said, that so alarming a precedent, as that of adjourning merely because one fine speech had been delivered, was what he never could consent to; and he was sure the right hon. gentleman was not aware of the badness of the precedent such a proceeding would establish when he proposed it. Would the right hon. gentleman, for instance, on days when he had a motion to make, and there was occasion, as there often had been, for him to introduce it with a very long speech, choose, that as soon as he had done speaking, the House should adjourn, in order to afford gentlemen time to consider of that speech, and to find out in what manner they could best answer it? He was sure that was a mode of doing business that the right hon. gentleman by no means wished to grow into custom. With regard to the compliment paid to his honourable friend, he knew his hon. friend too well, to think he wished for that sort of compliment conveyed by delay. His hon. friend had the cause and the justice of it, in which he had pleaded so powerfully as to flash conviction on almost every man's mind, too much at heart, to desire to

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postpone the decision that ought to follow his argument. His hon. friend had spoken ably, and indeed almost miraculously, as an hon. gentleman had expressed it; but why had he done so? Not merely because he had the gift of singular and superior talents, but because he had spoken in a right cause—because he had a heart susceptible of feeling, and capable of sympathizing with the woes of those who claimed protection on account of their innocence and their defenceless condition, and on account of the unparalleled oppressions they had endured. His honourable friend's speech had been called, and justly called, an eloquent one. Eloquent indeed it was; so much so, that all he had ever heard—all he had ever read, when compared with it, dwindled into nothing, and vanished like vapour before the sun. Having paid his debt of justice to his hon. friend, Mr. Fox again urged his argument against adjourning, unless some better reason was assigned than the mere lateness of the hour. If any gentleman thought he could answer the strong argument that had been that day delivered, or if gentlemen had any doubts upon their mind, let them state those doubts, or let them give the answer they meant to offer; but why adjourn without so doing, unless it was from a sense that what had been that day said was unanswerable, and from a wish to gain time, and by negociation and manœuvre accomplish that, which could not be done by fair argument? He said, he hoped to God, for the sake of the right hon. gentleman's character, and for the sake of what was still more important, the character of that House, the right hon. gentleman did not mean to vote against the question. If he did, he would doubtless support his vote by arguments that, in the right honourable gentleman's mind at least, appeared likely to have some weight with the House. If so, why not deliver those arguments then, and oppose their impression, whatever it might be, to the impression which had been made by his honourable friend's speech? What could be the object of delay, but merely having an opportunity of preventing the operation which the truth and eloquence of his hon. friend's speech would otherwise have in convicting the delinquent, and redeeming the injured character of the nation? With respect to the pretence of adjourning for the sake of deliberation, he could not admit its propriety. If gentlemen had not come with party prepossessions and personal partialities, they would not hesitate to vote when their minds were most alive to the cause of individual justice and national honour. The delay he conceived to be unexampled; for he never knew of any debate being adjourned, without some strong reasons of necessity being given; but in the present instance nothing of this nature had been stated as an excuse.

Mr. *Wilberforce* expressed his concern that the right hon. gentleman should have lavished away such a portion of time upon mere invective; upon insinuations which tended much to weaken the effect of the hon. gentleman's very able and eloquent speech, which he confessed had made a very great impression on his mind: but that was a reason sufficient of itself for him to wish for time to deliberate. He despised the imputation of being considered either as the abettor or the protector of delinquency, nor should he shrink from any investigation of the reasons which would prompt him to vote for an adjournment. Did the right hon. gentleman wish to lead the House captive at his chariot wheels? Were they not sitting there as judges on a question of the highest importance? A question which involved in its consequences the character and fortune of one of their fellow-subjects? Was it not, therefore, fitting in them to deliberate and investigate? He paid many compliments to the eloquence of Mr. Sheridan, which he acknowledged had thrown many new and important lights on the subject; but though they had in a great degree tended to remove his doubts, still he was not ripe for decision; and he was yet afraid to give his vote, lest it should prove erroneous.

Mr. *Fox* said, that the hon. gentleman who spoke last seemed to consider every thing as invective which did not convey the grossest flattery to his right hon. friend, Mr. Pitt. If he had used words which could be construed to convey invective, he was sorry for it, and he would be the first to beg the right hon. gentleman's pardon; but, on the present occasion, he was not conscious of having used such words. It was very true, that he had called on the right hon. gentleman, if he had any doubts, to state them; for it was, in his mind, highly important to the cause of truth and justice, that he should then give his opinion. He had stated, too, that all who knew the right hon. gentleman, knew that he possessed abilities, and that in those abilities he had sufficient confi-

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dence to be able at any time to state his doubts. In Heaven's name, then, why did he shrink from the inquiry? Was he afraid to meet decision? Or was he afraid to trust his cause to the present temper of the House? He hoped it was a cause like that of Cheit Sing, in which, though the right hon. gentleman had taken very confined ground, yet he had shewn that he was open to conviction. He hoped that the right hon. gentleman, for the sake of his own character, and for the reputation of his country, would, on the side he should take in the decision of the question of that day, shew that he was equally open to conviction. Of all questions which came to that House for discussion, India questions were those which required prompt decision; it was dangerous to trust them to the perils of negociation, or the dangers of out-door conversation; and he scrupled not to say, that an adjournment, far from assisting, would enfeeble and disgrace the cause of Mr. Hastings.

Mr. *Sheridan* said, that he should not have trespassed on what he was bound to consider as the already too liberal indulgence of the House, had he not been charged by major Scott with wilful misrepresentation with respect to colonel Hannay's evidence. Of the falsity of that charge he appealed to every gentleman who heard him. As far as his memory served him, he had stated that evidence fairly and fully. With respect to the adjournment, the House would see the propriety of his saying nothing on that subject.

Mr. *Martin* said, he had listened with admiration, and with the utmost attention, to the speech of the hon. gentleman who had opened the debate: he really felt himself on that account very much fatigued, and was therefore an advocate for the adjournment.

Mr. *Montague* said, that he came down to the House rather prejudiced in favour of Mr. Hastings; but he confessed, that the very masterly and eloquent manner in which he had that day heard the charge stated, had staggered, nay, almost convinced him of the justice of it; still, however, he was not prepared to decide, and therefore was for an adjournment.

The motion of adjournment was then carried without a division.

Feb. 8. The question being moved, for the resumption of the adjourned debate on the charge against Mr. Hastings, the Speaker left the chair, and Mr. St. John took his seat at the table. When Mr. Francis was on the point of speaking,

Mr. *Dempster* desired that, before the committee should proceed upon the adjourned debate, he might be suffered to to trouble the House with a requisition from sir Elijah Impey. He stated, that sir Elijah was waiting without the door, extremely desirous of being permitted to be called to the bar, for the purpose of delivering in a written paper, containing an explanation and correction of some few of his answers when last examined. He read the paper, and moved, That the request of sir Elijah Impey be granted.

Mr. *Francis* declared his earnest desire to have the paper in question laid on the table, if it could be done consistently with the rules of the House. But it constituted a very important question, which he desired the learned gentleman opposite to consider, whether a correction of evidence given in a judicial and criminal proceeding, after a considerable interval from the time when it was given, could be received consistently with justice. He believed there was no precedent of such a correction being admitted in similar circumstances; and therefore, very much against his inclination as to the immediate instance, and merely for fear of establishing a dangerous precedent, he must oppose the motion.

Mr. *Dundas* observed, that if every witness could come one day and contradict what he had said the day preceding, the confusion would be endless.

The *Solicitor General* said, that the House would be at once led to a decision upon the matter, by supposing, as a case in point, that two witnesses were examined the same day, and both agreed. If in that case, one came the next day, desired to be re-examined, and contradicted what he had before said, then the facts established by their concurrence would be let loose, and the task of adducing evidence could not possibly approach to a conclusion.

The motion was negatived.

Mr. *Francis* then rose, and resumed the adjourned debate. With respect to the adjournment of last night, he frankly acquitted Mr. Pitt of the intention attributed out of doors to that measure. His own sense of honour, would not suffer him to suspect that right hon. gentleman of intending a stratagem so unworthy of himself. Nevertheless, the effect and impression of the adjournment on the public mind certainly was, that

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it was deliberately contrived to gain time for calling in new power, and that power to decide, which had not heard Mr. Sheridan's speech; or at least to counteract by delay what could not be resisted by argument, namely, the instant impression made by that speech upon the minds of all who heard it; as if the hour of conviction ought not to be the period of decision. He said, he had wished to pay his tribute of applause to that wonderful performance at the moment when the impression of it was strong upon him; that he doubted much whether he should have been able to do it even then, in the instant of feeling, nor should he be able to do it now, after many hours of reflection. That to do justice to the ability, to the industry, to the arguments, and to the astonishing eloquence of his hon. friend, would require a power of ability and eloquence approaching to his own; he should therefore leave that task to others: that he himself looked higher—to the moral mind, that created and directed the intellectual power; to the honourable, generous, and virtuous heart, which was the true source of all those splendid efforts and brilliant operations of intellect, which the House had only admired as acts of the understanding; to that he attached himself. That he had always considered the human heart as the real source of human wisdom and folly, as well as of virtue and vice; that therefore the Book of Wisdom, to express the extremity of all folly, had declared, "The fool hath said in his heart." If this were true, the world would measure the virtues of his hon. friend by his abilities; they would judge of the pure and copious fountain by the magnificence of the stream, and give him a higher and more honourable place than even among the greatest of mankind. That his virtues, and, of course, his abilities, swelled and expanded, according to the occasion that brought them into action, and spontaneously rose to a level with the new office which they were called upon to execute. To him, indeed, that day had decreed a a glorious triumph; a triumph independent of victory; and if defeat were possible, victorious in defeat.

Mr. Francis then entered upon a statement and explanation of some particulars relative to the question, which were not, he said, sufficiently explained or insisted on, and some of them not even understood. He mentioned that the Begum had saved the life of her son, the present Nabob Asoph ul Dowla, at the hazard of her own. When the father once drew his sabre to kill him, she fell down upon him, and thus rescued him, though at the loss of her own blood, for she was wounded in the scuffle. This was an action Sujah ul Dowla was very capable of, for he hated and despised his son; and so far from leaving him his treasures and his personal estate, he would willingly have deprived him of his succession: he had heard this fact from Mr. Hastings himself. Mr. Francis said, that when he was at Calcutta, Mr. Hastings used to assign a reason for his partiality to the Begum, which he thought at the time a very tolerable one, viz. that the Begum had been recommended to his particular care and protection by the late Sujah Dowlah in the most pathetic manner. That Mr. Hastings did take her part in 1775, when, as he said, (with a view to reflect on general Clavering, col. Monson, and Mr. Francis) Mr. Bristow, appointed by them, had taken an improper part against the Begum. That the elder Begum was the rightful heir to the soubadary of Oude; at least, it was through her that the principality came into the family of Sujah Dowlah; consequently she had a better right to the jaghires than the present nabob had to his throne. That whereas it was insisted on, that the plunder of the personal property was resolved on by Mr. Hastings in consequence, and as a punishment of the resistance made by the Begum to the resumption of the jaghires, it appeared by the positive evidence of Mr. Middleton, given at the bar, that the resumption of the jaghires was resolved on after the seizure of her treasures.

Here he earnestly entreated the committee to observe, that when all the other pretences by justifications, set up in defence of this atrocious act of violence, had been refuted or abandoned, the friends and advocates of Mr. Hastings had been driven at last to the old-established resource of tyranny, to the common profligate plea of state necessity, viz. that the Company's affairs, in the middle of the year 1781, when Mr. Hastings went up to Benares, were reduced to such distress, and all their pecuniary resources so completely exhausted, that measures of all sorts, and any sort, were to be justified, provided they tended to procure a supply of money, and an immediate relief to that extreme distress. That, from the death of sir John Clavering

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in August, 1777, Mr. Hastings was unquestionably the master of the British government, not only of Bengal, but of all India; and, as he would be fairly entitled to the merit, so he ought to answer for the ill consequences of every thing that was done during the existence of that power. That, on the 10th of August 1778, Mr. Hastings had laid before the board an official estimate of resources and disbursements, which stated an unappropriated balance of about 2,400,000*l.* sterling which he expected to remain in the Company's treasury, (after deducting all the probable disbursements from the expected resources) on the 30th of April, 1779. From this balance, Mr. Hastings deducted thirty lacks of rupees for extra disbursements, not provided for in the estimate, leaving a corrected balance of cash to the amount of above two millions sterling, which he asserted, and, by all manner of official documents, proved, would exist in the Bengal treasury on the 30th of April, 1779. Of what nature, then, were the subsequent measures, pursued by Mr. Hastings, which, in so short a period as from April, 1779, to July, 1781, had not only wasted that great surplus, but which forced him to incur a heavy bonded debt, and yet left the Company's affairs in such an abandoned state of penury and distress, as might, with some colour of reason, be alleged and pleaded in justification of the various crimes committed by Mr. Hastings for the avowed purpose of getting money, and which were the subject of the last and present charge against him? Mr. Francis requested the committee to carry this reflection in their minds when they should come to inquire into the wars made by Mr. Hastings, and other causes of the monstrous waste of the public property committed to his care.

Mr. Francis offered other pertinent observations as to the facts stated in the charge, and quoted the following passage from a letter of Mr. Middleton to sir Elijah Impey: "I soon found that no real advantage was to be obtained by proceeding, at once, to violent extremities with the Begum; and that she was only to be attacked through the medium of her confidential servants, whom it required considerable address to get hold of: however, we at last effected it; and, by using some few severities with them, we at length came at the secret hoards of this old lady!" What was this, asked Mr. Francis, but the language of thieves and ruffians, plotting in a night-cellar to break into a house, and rob some innocent woman of her property? Mr. Francis went on with a series of observations, in allusion to the facts in the charge. He said, that it was true, he thought the Begum had no right to appropriate the produce of the conquest and plunder of the Rohilla country, while the money due to the Company on account of that war remained unpaid. No opinion of his ever went farther than that. The council never interfered, otherwise than by approving and confirming the guarantee given by our resident to the final settlement between the Nabob and his mother, on the 15th Oct. 1775, after he had already obtained from her above 600,000*l.* That treaty was a receipt in full, a security against farther demands, and a *quietus* for ever. Mr. Hastings went farther than any member of the council, in approving that settlement; though now he says, that the whole of this transaction passed under the order and guidance of the board, which excluded him from any share in their acts, equally in such as he approved, and in such as he disapproved! At that time, his language was different; but now, it seems, he may approve of an act, and vote for it, and yet he is to have no share in it. Whether he approved of it or not, he was bound by the sense of the majority, which constituted the act of government. In the present instance, the council were unanimous, and Mr. Hastings took the lead. It was true, the Begum, at her own desire, paid a small part of the above demand in goods of different sorts. Whether Mr. Bristow did right or wrong in accepting of such articles, the council certainly did right in ordering them to be sold by public auction. The suspicion which unavoidably fixed itself upon arbitrary valuations and private contracts, cannot exist in the case of a public auction. Mr. Middleton's evidence will shew in what manner the property of the Begums was sold in 1782. It was true, that he, (Mr. Francis) in 1775, had expressed his surprise that two ladies, locked up in a seraglio, should talk of meddling with affairs of state: but was that any reason for plundering them of their property; for robbing them of all they had; for treating them with the most scandalous injustice, extortion, violence, and cruelty? Could the opinion attributed to him be accommodated to such actions? And if it could, was it just to allow Mr. Hastings, who never followed his advice in any

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thing, to shelter himself under the concurrence of his opinion? These unfortunate women were, indeed, disqualified by their sex and situation from meddling in the affairs of government, and perfectly incapable of disturbing it if they would. The attempt to charge them with a design to extirpate the English out of India, was equally base and ridiculous; as if it were possible for two old women, locked up in a seraglio, and two decrepit eunuchs, first to depose the Nabob, their son and sovereign, and then to expel the English, which could not be effected by a combination of the four first powers of India, assisted by the French. This absurd pretence, in addition to all the cruelty and injustice of the proceeding, fixed upon it a brand of falsehood and ignominy which would render the name of an Englishman, in Asia, contemptible as well as odious for ever.

Mr. *Nicholls* observed, that whilst he paid a just tribute to the astonishing eloquence and highly cultivated talents of Mr. Sheridan, he must contend, that the whole of his fascinating harangue had turned upon a fallacy. The question was not whether the Begums were in actual rebellion, but whether Mr. Hastings was given to understand that they were so, in a manner sufficiently plausible, to induce him to credit the alleged fact. Mr. Nicholls entered into a series of reasoning upon the right construction of the words in Mr. Middleton's letter of the 6th December, 1781, "and the measures heretofore proposed," which he affirmed were to be understood differently from the manner in which they had been argued in the speech of the mover of the motion. He remarked, that taking the jaghire from the Begums, two women shut up in a zenana, and incapable of managing such a property, for which they received an equivalent, was a benefit, and not an injury. He also defended the seizure of the treasures, referring the committee to Mr. Middleton's letters, and to other documents, to prove that the Nabob had always considered the wealth as his property, by inheritance.

Major *Scott* rose and said:—Before I request the indulgence of the committee on the subject of the present debate, I shall take the liberty of offering a few words, in reply to the hon. gentleman (Mr. Francis) who has just sat down. Allusions have been made to publications out of this House, and to the means that have been taken to bias the public upon the important question now under consideration. I have no scruple to say, that Mr. Hastings, instead of being merely an accused, is a shamefully persecuted man; and that means the most indecent, scandalous, and infamous, have been resorted to, in order to prejudice him in the opinion of those parties who divide this kingdom, and who may be the ultimate judges of this important question. In the first speech made by the hon. gentleman in this House, he declared, "that he should be sorry to be suspected of retaining a spark of personal animosity against Mr. Hastings. We are both," he added, "I believe, men of tempers too warm to be capable of resentments; our contest is at an end, and the hostilities it produced expired with it." If it had not been for this solemn declaration, I should be led to conclude, that he was the author of a pamphlet, which I now hold in my hand, as the style of the work bears so near a resemblance to the minutes and writings of the hon. gentleman. Sir, I pay him no compliment, when I say his style is a good one, and something peculiar. But, Sir, be the author who he will, I take upon me to affirm, that a more infamous attempt to oppress a man, shamefully persecuted, was never practised; and the man who did it, has a heart blacker than ever existed in a human frame.—As the major was proceeding to read the pamphlet,

Mr. *Courtenay*, rising to order, contended, that it was exceedingly improper for any member to read, as a part of his speech, an anonymous pamphlet.

Mr. *Francis*, expressing his astonishment that the hon. major should have thrown out any insinuations calculated to lead the House into an idea that he had written the pamphlet in question, added, that he considered the present business as too important to admit of unseasonable interruptions. At a proper time, he would readily enter with the hon. gentleman upon a discussion of the subject; but he trusted, that the committee would not suffer an infinitely more momentous investigation to be at all retarded in its necessary course.

Major *Scott* said:—I have already given the reason, why the hon. gentleman could not possibly have written it; and I shall now proceed to state the parts I complain of. The author, in his preface to these "Observations on the Defence of Mr. Hastings," says, that the defence was, by

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Mr. Hastings's authority, printed, published, and circulated with uncommon rapidity. This, I affirm, to be a gross falsehood; for neither Mr. Hastings, nor any person connected with him, had the smallest concern, either in the printing, publishing, or circulating that Defence. But what follows is of infinitely more consequence. We all know, that a pamphlet was published some time ago, which, though not approved of universally, has been universally read—so much so, that it has gone through seven editions, and I understand Mr. Debrett expects to sell 20,000 copies of it. Amongst others, Mr. Hastings, or some of his friends, have been mentioned as the author; and although the publisher of the pamphlet has declared, that neither Mr. Hastings, nor any person directly or indirectly connected with him, wrote that pamphlet, yet since the declaration was so publicly made, the author of the work, in my hand, has inserted the following passage in his Observations: "He (Mr. Hastings) says Madagee Sindia has written letters in his praise to his most gracious Majesty, and to the Company. Any body else would have said simply to his Majesty. The epithet, 'most gracious,' is seldom or never used, but in direct addresses, or petitions to the King. The affectation of introducing it in the mention of so unimportant a fact, requires no comment. But wounds, as well as compliments, come from the same quarter. The spirit that flatters can insult. The author, whose pamphlet, as he imagines, is to deliver characters to posterity, and whose education in the school of Mr. Hastings is self-evident, has taken upon him to assist, from what he calls an intimate knowledge of his Majesty's character;" &c. I do not choose to proceed, conceiving it would be highly unbecoming in me to do so: but I affirm, that the man who had the baseness to calumniate Mr. Hastings, and to mention this work as coming from his school, must have done it with a knowledge, that he was publishing a gross and scandalous falsehood to the world; and he must have a heart blacker than ever existed in a human form.

The hon. gentleman who spoke so eloquently yesterday, talked of the servile dependents of Mr. Hastings. I hope, Sir, he does not rank me in that number, if such there are. I left England with English blood in my veins, and, I hope, I have brought English blood back again to my native country. The hon. gentleman has, I trust, a better opinion of me, since, upon a very remarkable occasion, he consented to a conference with me, which, if it had taken place, might have prevented that splendid display of eloquence which we heard yesterday. The fact is, Sir, that I was above twelve years in India, before I had the pleasure to be known to Mr. Hastings, except by dining at his table, in common with other officers, of my own standing. The hon. gentleman, in opening the question, took a very wide range; nor do I conceive it can be fairly considered, without a view of the state of affairs in India, and in Europe, as connected with India, in 1781, and for some years preceding. In 1775, the debt of Great Britain was, I believe, about 125 millions. It continued rapidly increasing from that unfortunate period; and in 1782, it had increased to the alarming amount of 230 millions. In the same period, 100,000 lives were lost, a vast empire in America, Minorca in Europe, several of our West India islands, and our most valuable settlements on the coast of Africa. I believe no history, ancient or modern, can afford an instance of so rapid a decline in the prosperity of a great country. The flames of war, which raged with so much violence in Europe and America, were extended to Hindostan; for I assert, without a fear of contradiction, that the politics of Great Britain involved us originally in India. An event, which the right hon. gentleman truly foretold very early in the American war, when he said it must, by its continuation, involve this nation in every quarter of the globe. During the progress of our calamities in Europe and America, I would desire to ask gentlemen, what happened in India? We were there, it is true, involved in wars, and surrounded with difficulties—but how different the conclusion! Did we lose a foot of territory in India? So far from it, that we had taken, in the course of the war, every French and Dutch settlement on the continent of Hindostan, and were besieging the French garrison of Cuddalore, their only remaining hope, when intelligence of the peace in Europe arrived at Madras. The first account of that important event was conveyed by an express dispatched by me to Mr. Hastings at his own expense. The noble marquis, who deserves the warmest thanks of a grateful country, for ending a calamitous and most expensive war, gave up, and wisely gave up, the con-

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quests of the East India Company in India, in order to save the British possessions in the West Indies. I would ask gentlemen, in what other quarter of the globe could we make cessions to France? In none; for except the island of St. Lucia, all the conquests we made during the late war, were made in India. I have sat in the gallery in other days, and listened with profound attention to the right hon. gentleman (Mr. Fox), when he has so strongly and so truly described the calamitous and degraded state this country was reduced to; I have heard him attribute those calamities and that degradation to the imbecility, and the indolence of the noble lord who for many years was the minister of this country. I have been informed, that the right hon. gentleman has sometimes in this House, during the late war, expressed his warmest wishes for America. Her cause was the cause of liberty, the cause of Whiggism, and of the British constitution. A right hon. gentleman, who first moved this prosecution, has been equally violent upon former occasions against the noble lord, and equally zealous for America. His zeal once carried him so far as even publicly to avow in this House, a correspondence with Dr. Franklin, then declared by law a rebel to this country, on the exchange of a British general. The noble lord has, upon many occasions, declared that he imputed our calamities to the intemperate violence of Opposition, and to their encouragement of the rebellion in America. But that in a very few years we experienced a melancholy reverse; that from being the first, as well as the freest nation in the world, we, in less than seven years saw our empire dismembered, and the people of England so oppressed and borne down by taxes, that the most economical minister will scarcely be able, in future, to make the income of the state meet its expenditure; that in a very few years these melancholy events did happen, are truths which all parties acknowledge, though they may differ as to the causes to which these misfortunes are to be attributed. What was the event which happened a few short months after these melancholy truths were so universally felt and acknowledged? It was of such a nature, that not all the splendid talents, the wit, the ingenuity, or the humour of the gentleman opposite, will ever be able to efface from the minds of the people of England. The noble marquis, to whom I alluded before, had the good fortune to save this country from total ruin, in January 1783, by restoring to us the blessings of peace. If the matter were doubtful then, what shall we now pronounce? If after five years of peace, this nation can hardly pay the interest of its public debts, and provide for its various establishments, how could we have borne an additional load of 20 millions? and such would have been the consequence of another year of war. Of the truth of this the right hon. gentleman was so sensible, that not many months previous to the peace, he declared in this House, I mean, during the Rockingham Administration, that bad as he had conceived this country to be before he came into office, he found it upon examination infinitely worse, and that no peace could be a bad one for this country. What was the consequence of the restoration of peace? An agreement, between long hostile and contending parties, to turn out the noble marquis who concluded it, and to seize themselves the government of this country. The right hon. gentleman who had declared, in November 1781, that the noble lord who was then the minister "must hear of his disgraceful and ruinous measures at the tribunal of justice, and expiate them on the public scaffold;" the same right hon. gentleman who then made this public declaration, was joint Secretary of State with the noble lord in March, 1783. With equal indignation, another right hon. gentleman spoke of the noble lord; yet he too, upon that occasion, echoed the humane sentiment of "inimicitiæ placabiles, amicitiæ sempiternè." I hope I am not irregular in the ground I have taken, because I mean strictly to apply these extraordinary and unexpected changes of opinions and measures to the subject before us.

I am exceedingly sorry for the occasion of the absence of the noble lord (North). From the declaration of war with France, or rather from the time of the delivery of the French rescript in March 1778, to March 1782, when the noble lord resigned his office, he has avowed publicly, that he supported Mr. Hastings, and he has also avowed the reasons for which he supported him: 1. That it was a season of war, and of great difficulty and danger: 2. That Mr. Hastings possessed vigour and abilities; and, 3. That he enjoyed the confidence of the East India Company. In the Rockingham or succeeding admi-

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nistration, the right hon. gentleman (Mr. Dundas) moved, in May 1782, "that Mr. Hastings should be recalled from the government of Bengal." He stated, that he moved the recall of Mr. Hastings, because, in his opinion, he had forfeited the confidence of the native princes in India, and could not conclude a peace. It happened, however, that, in that very month, and almost on the day the right hon. gentleman made the motion, Mr. Hastings did conclude a peace with the Mahrattas. I have since heard the same right hon. getleman avow in this House, that he was happy the proprietors had resisted that vote, because he was convinced by so doing they had rendered a very essential service to the Company and to this country. The right hon. gentleman declared also, that he had been pressed to remove Mr. Hastings for delinquency, but that he had declined to do so, not thinking him a delinquent. At another time the right hon. gentleman avowed, that, by great exertions, by procuring money, (God knew how or where), Mr. Hastings had been enabled to pay the army, which otherwise must have mutinied, or been disbanded.

In March, 1783, the gentlemen who conduct this prosecution again came into office, with the additional strength of a noble lord, formerly the minister, and his numerous friends. The committee will recollect, that the events upon which this charge is founded happened in January, 1782: that complete information of them arrived in England in the autumn of 1782, and that in 1783, a report upon the subject was made by the select committee. Parliament continued to sit till July; and admitting that there was not time in that session to bring in a general bill of regulation for India, I ask, what could be the reason for not removing Mr. Hastings? If the ministers of that day thought so ill of him as they now pretend to do, they were criminal for continuing him in charge of the first office under the British empire, and for destroying at the time the authority of his office. They had the power of removing him by a short bill in any ten days from April to July. In September 1783, a letter arrived from Mr. Hastings, in which he expressly desired the court of directors to remove him, and to appoint a successor. Of this letter no notice was taken; and in November, it was very plainly discovered for what purposes Mr. Hastings had been continued so many months in office. When the right hon. gentleman (Mr. Fox) introduced his celebrated bill on the 18th of November, 1783, he grounded the necessity of that Bill upon the mismanagement of Mr. Hastings, and upon his interest being so great in the court of proprietors, that there were no hopes of future reformation, without a total overthrow of the privileges of the Company. The Bill passed through this House; but, thank God, was defeated in the other. The nation reprobated the measure: and I call upon gentlemen to declare, whether the mover of that Bill was founded in his predictions as to the ruin or the loss of India, provided his Bill, or one similar to it, was not carried? Upon that occasion if I had been under any apprehension for Mr. Hastings, I might at least have attempted to insure his safety, and might have succeeded; for though it appears by an explanation between two gentlemen in 1786, that I was mistaken as to the extent of the offer that I conceived to have been made on the day that Bill was brought in, (though it is remarkable that my public avowal of the transaction, with my name signed to that avowal, was made a very few days after it happened and was never contradicted by any man openly, or anonymously;) yet it will be allowed, that if I had been under apprehensions for Mr. Hastings, and had met the hon. gentleman who opened the charge yesterday, he might have lost that opportunity of displaying his astonishing eloquence. I have now, Sir, stated the grounds upon which the present prosecution stands. The hon. gentleman (Mr. Francis) has stated to the committee the share he had in the original demand made upon the Begum; and he has said, that he gave his opinion on the impropriety of a woman, immured in a seraglio, presuming to talk of appointing ministers and governing kingdoms; but that, in so doing, he rather meant to glance at Mr. Hastings than the subject then in debate. It would have been fair and candid if he had added what follows in his minute. "With respect to receiving her into the provinces, I shall have no objection, provided she can obtain the Nabob's consent; without that, she can have no right to remove the immense wealth she possesses, or even her own person out of his dominions." I appeal to any gentleman to determine whether the hon. gentleman who wrote this minute in January, 1776, did not conceive, that, notwithstanding the Com-

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pany's guarantee, some power remained in the Nabob. Why say she had no right to remove the immense wealth she possessed without his permission, if all future claims were given up? Her eunuch Behar Ally Cawn had told Mr. Bristow it was amassed, to provide against an emergency.

It will be impossible to follow the hon. gentleman who opened this charge. All I shall presume to attempt will be, to detail very shortly what was our situation in Oude in 1781, what reduced us to that situation, and then to consider whether Mr. Hastings was justifiable in consenting, first to the resumption of the jaghires, and afterwards to the seizure of the treasures. In one point we are all agreed, that the province of Oude, from having been in a state of prosperity, was reduced to very great distress. I assert, that this distress was brought upon the country by measures in which Mr. Hastings not only had no concern, but, as the gentlemen who carried them into effect observed to the court of directors, which he opposed in every stage. The treaty of Benares of 1773, was merely a modification of the treaty concluded at Allahabad in 1765. By the treaty of Benares, Sujah Dowlah was to pay two lacks and 10,000 rupees a month for a brigade of British troops, when doing duty in his dominions; and when Sujah Dowlah died in February, 1775, Mr. Hastings was of opinion that no new treaty should be made. The majority, Mess. Clavering, Monson, and Francis, determined otherwise; and they obtained from the young Nabob the districts of Benares and Ghazepore, and an addition of six lacks of rupees a year to the former subsidy. Mr. Hastings then predicted, as may be seen in the fifth report of the secret committee, that these conditions could never be fulfilled, and that they were inconsistent with former treaties. When Sujah Dowlah died in 1775, he left his army from eight to twelve months in arrear; and there was a very considerable sum due to the Company. I refer gentlemen to the correspondence of Mr. Bristow in those days, to prove the wretched and miserable state of the Nabob's government. In October, 1775, he applied for British officers to command his troops. These were granted, and were undoubtedly the source of additional distress to his finances. With regard to the oppressions said to have been committed in Oude, and the plunder of that country by British officers, I am totally ignorant of the subject; for myself, I should have no objection to proclaim the amount of the fortune I acquired in India to-morrow morning at Charing-cross. And I can safely answer, that in marching in the command of a small detachment through a part of Oude in 1773, the utmost that I received was a few bullocks and a few sheep, which were sent to me by Sujah Dowlah: but that the avowed and fair advantages of officers serving in Oude on the Vizier's establishment, were infinitely superior to any that were enjoyed by officers in our own provinces, is a fact of public notoriety, and cannot be mentioned as a reflection upon any one. The pay of the monthly subsidy for the regular brigade, of the corps under British officers, of the Nabob's separate military establishment, added to the enormous amount of his other expenses, had so greatly deranged his affairs, that the country was precisely in the state which Mr. Bristow represents on the 22nd Jan. 1777, and from that day I date Mr. Hastings's responsibility to commence. I entreat gentlemen to read that letter, and they will see how truly Mr. Hastings's prophetic apprehensions were fulfilled. His first measure was to propose to the Nabob either to withdraw the British officers from his service, or to consent to their being put upon the same establishment with our own army, and to be relieved at stated periods by other battalions. To this arrangement the Nabob consented; nor was it attended with any additional expense to him. The Nabob's dominions continued in 1777 and 1778 in the same state as in the two preceding years. The debt, when Mr. Middleton took charge, was 70 lacks of rupees, and was never diminished until finally liquidated by Mr. Hastings in 1785. In April 1779, the Nabob wrote a very strong complaint to Calcutta of the injuries he sustained by the weight of our demands upon him; but what is pretty singular, he added, that the difficulties he then laboured under he experienced for three years, that is, from the first adoption of a system in which Mr. Hastings had no concern, and the mischievous consequence of which system he had predicted. In 1780, the Nabob renewed his complaint; but it is perfectly clear, that, at either of these periods, Mr. Hastings could not have withdrawn the British troops from his dominions. In 1781, Mr. Hastings met the Nabob at Chunar: to this time, he had protected the Begum in the possession of all her rights, under the Company's

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guarantee. The propriety of resuming the jaghires under the then existing circumstances seems to be allowed. The principal point is the seizure of the treasures; and the circumstance to be proved, in order to justify that measure, is, that the Begums, by themselves and their agents, did openly encourage the levy of troops for the service of Cheit Sing, and were in a state of open hostility to the Nabob and the English at that period.

The letter of Mr. Middleton to Mr. Hastings, dated the 17th of October, 1781, contains information, sufficient to fix this point beyond dispute, that the Begums and their eunuchs Jeuar and Behar Ally Cawn, did publicly raise troops for the service of Cheit Sing, in Sept. 1781, and that they were as active and as hostile to the British interest at that interesting period, as their situations would enable them to be. The important facts mentioned in Mr. Middleton's letter were afterwards confirmed by col. Hannay, capt. Williams, capt. Gordon, and major Macdonald, as well as by several native officers under their command. To these are opposed, the letters of col. Hannay and captain Gordon, acknowledging their obligations to the Begum for relieving captain Gordon when in great distress at Tanda. Col. Hannay is no more, but capt. Gordon was in England last year, and is so still I believe. It is extraordinary, that he was never called before the committee. That col. Hannay acted with proper policy, in temporizing with the Begum at that critical moment is allowed: but why her release of capt. Gordon should be brought as a proof that she was not disaffected to the British government, I cannot conceive; for I do not find that the hon. gentleman has at all attempted to invalidate the depositions of col. Hannay. These stated, that his troops were seduced from him the 8th Sept. 1781, at Fyzabad—that his sepoys were not permitted to enter the town—that troops were publicly raised there for Cheit Sing; and in his letter to Mr. Middleton, the 5th Sept. 1781, col. Hannay writes that the Begums themselves had almost recruited for Cheit Sing. Col. Hannay also swears that he represented these improprieties to the Begum, but could obtain no answer. One circumstance in col. Hannay's deposition is most singular, that a few days previous to his arrival at Fyzabad, a commander named Sher Cawn, had marched with 1,000 horse and foot to reinforce Cheit Sing. These troops are called Nujubs. It is deposed by Cheit Sing's second officer, that there were 1,000 Nujubs from Lucknow in Cheit Sing's army, and the commanding officer of our troops took some wounded Nujubs prisoners. This is a most material confirmation of col. Hannay's account, for they are unquestionably the same men; since it is evident Cheit Sing's officer mistook Lucknow for Fyzabad, a mistake that might very naturally have happened. To the various depositions that were taken in order to prove the reality of the Begums' share in the rebellion of Cheit Sing, may be added the general opinion of every officer who was in that part of India, in Sept. 1781. I have never yet conversed with an officer who did not confirm the truth of the depositions. I have been assured, that by the daily reports of the hircarrahs, who brought intelligence during the rebellion of Cheit Sing, the road from Fyzabad to Benares, was filled with troops raised by the Begums' eunuchs. If it should be observed, why was not evidence called to these points by Mr. Hastings; I put it to the honour and candour of gentlemen, to consider how the prosecution has been carried on, or if there is any thing similar to it in history. I could not last year obtain half an hour for the examination of a single officer, capt. Williams excepted, whose evidence delivered at the bar is most important.

The hon. gentleman who spoke yesterday, talked much of suffering millions, and that the British character in India had materially suffered by this transaction. I deny both his assertions; and I appeal to facts, which are of more consequence than mere declamation. Will the hon. gentleman point out a period when the British character in India stood higher, than immediately after that he alludes to, or than it does at the present moment? It is a singular circumstance that so far from the Begum having ever complained of an injury done to her, except what is stated in her letter to Mr. Bristow, in Oct. 1782, she voluntarily consented, as well as her brother Salar Jung, in 1784, to contribute a sum of money from the income of her jaghire, in order to enable the Nabob Vizier to liquidate his debt to the Company. It is now two years since Mr. Hastings resigned the government of Bengal. Has any complaint been transmitted against him from the Begum, or from any person in India? Where are the

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suffering millions which the hon. gentleman alludes to? I appeal to facts, to prove that in no period of the history of India was Bengal in a more flourishing state, or the revenues better collected, or with so little severity, as during the height of the late war. The hon. gentleman has been very profuse of his censures; but I would ask him, in what part of the world has the British character been better sustained than in India during the late war? A British officer will ever be a respectable character, serve where he will; but where have our officers served with equal success, as in India during the late war, or with so much substantial service to the country?—The hon. gentleman has dwelt upon points that are totally foreign to the charge against Mr. Hastings. It is in evidence, that not only Mr. Hastings could have no concern in the distresses of the women of the Khord Mahal, but that no English gentleman had at any time the slightest concern with that zenana. Major Gilpin, who happened to be at Fyzabad when the unfortunate women immured in it were in so much distress, did what I am sure every British officer would have done on the same occasion. He applied for relief, and he obtained it: but it is remarkable that these distresses were not notified to Mr. Hastings or the council, until after the relief had been given. With regard to the eunuchs Jeuar and Behar Ally Cawn, it is also a fact, that the severities practised to compel them to pay the money they had stipulated to pay, were never communicated to Mr. Hastings, or the council, until after their release in Oct. 1782, and then the particulars having been sent as inclosures in a letter, were entered upon the consultations; but that they were never read by any one member of the board is evident, since, on the 3d of March 1783, the whole board wrote to Mr. Bristow to know what had been done relative to the recovery of the balance, and they ordered that the most effectual means should be taken for the immediate recovery of it.

I now come to take notice of the arguments of the hon. gentleman on the contradictions that appear in the face of Mr. Hastings's defence, which in one instance is very material: but in effectually clearing Mr. Hastings from this charge, I am afraid I shall incur the risk of bringing another upon him; I mean the charge of disrespect to the House. If it is considered, however, that when he petitioned to be heard, he had a reply to make to every charge in five days, it will scarcely be expected that he had not some assistance; indeed, he has said so in the beginning of his reply to this charge: after saying this, I do now declare upon my honour, that Mr. Hastings neither wrote nor read the reply to this charge: it was cursorily read to him by me, and the inaccuracy in it escaped his attention and my own. He added a very few lines, in which no inaccuracy appears, and in this state it was read to the House. After having said this, it will be no difficult matter most effectually to explain this error. Mr. Hastings's defence states as one reason for seizing the Begum's treasures, that she had resisted the resumption of her jaghires with actual force. No such argument was ever urged by Mr. Hastings—whether the committee shall determine for or against him, the fact is clear, that he has at all times avowed, that he strenuously supported the Nabob in seizing the Begum, in consequence of the active part she took in the insurrection of Benares. Mr. Hastings consented to the seizure of the Begum's treasures on the 1st Dec. 1781, and wished it to be done immediately. He repeatedly wrote with the greatest earnestness to Mr. Middleton upon it, and threatened to go to Lucknow himself, unless he would accomplish this point. It was not until the 8th of January, that the Nabob and Mr. Middleton had arrived at Fyzabad. In the interval between the 2d Dec. and the 8th of Jan., orders had been issued for the resumption of the jaghire, and resisted, which the Nabob assigned as a reason for seizing his mother's treasures—but Mr. Hastings's encouragement and support of that measure, was originally taken up upon one ground only, namely, the share the Begums had in the insurrection of Cheit Sing; of this his correspondence with Mr. Middleton in Dec., gives most ample proof. In Mr. Hastings's letter to the board of the 23d Jan. 1782, he says, "This resolution" (to seize the treasures) "I have strenuously encouraged and supported, not so much for the reasons assigned by the Nabob, as because I think it equally unjust, and impolitic, that they should be allowed to retain the means, of which they have already made so pernicious a use, by exciting disturbances in the country, and a revolt against the Nabob their sovereign." In short, there are a thousand incontrovertible proofs, that Mr. Hastings had never the

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most distant idea of grounding his consent to the seizure of the treasures, on the resistance made by the Begums to the resumption of the jaghires; nor was it ever so understood by the directors at home, or by the Begum in India, since she herself in her letter to Mr. Bristow, says, "The conspiration now framed an accusation against me, of a conduct which I never had conceived even in idea, of rendering assistance to Rajah Cheit Sing."

I now desire to call the attention of gentlemen to the arduous situation of India at the time these events occurred; and I am the more desirous of doing this, because I find a very fallacious gloss is thrown upon the single circumstance of Mr. Hastings having, in the midst of his difficulties at Chunar, effected a separate peace with Madagee Scindia, which in its consequences restored peace to India at a more distant period. I can affirm most safely, that there never was a period of history in which any empire upon earth was in a more precarious state than the British empire in India, from Oct. 1780, to the beginning of 1783; and that the most critical time, even of that momentous period, was precisely at the instant when Mr. Hastings strenuously encouraged and supported the Nabob in seizing the treasures in his mother's possession for the liquidation of the Company's debt. Whatever gentlemen may think in these days of tranquillity, warmed and animated as they have been, and still are, by the eloquence of the hon. gentlemen, the time of cool reflection will come, and then they will be convinced that India was saved by the recovery, in January 1782, of the debt due to the Company by the Nabob. I do not desire the truth of this fact to rest upon my assertion, but shall proceed to prove it. In Sept. 1780, the intelligence was received in Calcutta, that Hyder Ally Cawn had defeated colonel Baillie's detachment, and that sir Hector Munro had found it necessary first to retreat to the Mount, and from thence to Madras. In that situation, men, money, and provisions, were required from Bengal, in order to save the Carnatic. But this was not all—at the same time accounts were received, that a very strong armament was expected from the island of Mauritius and from France to co-operate with Hyder Ally. This armament arrived the following month of January, consisting, of seven sail of the line, with frigates, and a number of French troops. Very fortunately, and very unexpectedly, and very unaccountably, this formidable force under M. D'Orvés returned to the islands without effecting any thing. The right hon. gentleman (Mr. Dundas) has allowed, upon various occasions, that to the spirited exertions of Mr. Hastings in October, 1780, we are indebted for the preservation of the Carnatic. The hon. gentleman (Mr. Francis) quitted India in December 1780, and on his arrival in England he gave to the court of directors a most gloomy account of the state of affairs in India, but scarcely, I allow, exceeding in reality the desperate state in which he left us. Sir Eyre Coote got safe to Madras with a reinforcement of men, money, and provisions. I desire gentlemen to read what his representations were. He wrote to Mr. Hastings and the council, that his army must in future be paid and fed from Bengal; and even with every assistance that could be afforded him, the issue would be exceedingly doubtful. At this same moment, Chimnagee Boosla, the son of Moodagee, was at the head of a Mahratta army at Cuttack, which had marched for the avowed purpose of invading Bengal. This storm Mr. Hastings averted by the payment of sixteen lacks of rupees, and by so doing he withdrew Moodagee from the confederacy. He secured the unmolested march of col. Pearce at the head of ten battalions of sepoys, who joined sir Eyre Coote before the second action with Hyder, and he effectually broke the confederacy that had been formed against us—a service for which he was condemned in 1782 by a resolution of this House, but which every rational man now speaks of with applause. All the money that could be borrowed upon bond was borrowed previous to Mr. Hastings's departure from Calcutta in July, 1781, when he proceeded to Benares. Our funds were gone, but the public necessities daily increased.

I beg leave to mention a very singular circumstance, in order to prove the distress to which we were reduced. Our army in Bengal was considerably in arrears. Our investment was kept up by loans; and in Nov. 1781, when it was absolutely necessary to send a considerable supply of money to sir Eyre Coote, the council in Calcutta, Mr. Wheeler and Mr. Macpherson, could not complete the sum from the public treasury; but, upon the credit of a principal native in Calcutta, borrowed five lacks of rupees,

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which were repaid from the first collections. In Oude the army was six months in arrears. The brigade at Cawnpore was very considerably in arrears; so was col. Muir's army in the Mahratta country, and vast supplies were required at Madras and Bombay. Mr. Hastings knew that M. Suffrein would be upon the coast early in 1782; and without the most strenuous exertions, India was lost for ever to Great Britain. Important as was the peace with Madagee Scindia, at the time it took place, I affirm that those know nothing of India who assert, that that event alone deprived Mr. Hastings of the plea of necessity for the strong measure he adopted, if that had been his plea:—but, whether the seizure of 55 lacks of rupees was justifiable on the ground Mr. Hastings acted, or whether it was justifiable on the plea of necessity, or whether it is not to be defended on either ground; of this I am certain, and every man who knows any thing of India thinks with me, that 55 lacks of rupees were not to be procured by any other means, and that without such a seasonable supply, we might at this moment be debating how Mr. Hastings should be impeached for losing India. Let me again remind the Committee of a former speech of the right hon. gentleman (Mr. Dundas), that God knew how Mr. Hastings managed, but he did manage somehow or other to raise money, and without money the empire in India must have been lost. Gentlemen should consider that we cannot do in India as a minister does in Great Britain. We cannot borrow a hundred millions upon the strength of taxes, which are to be a clog upon our remotest posterity. Our empire in India must be preserved by the exertions of the moment, proportioned to the danger of the moment; and the hon. gentleman, as he advances in Oriental knowledge, will discover, that the man who shrinks from responsibility will lose a distant empire. Probably it will never happen to me to be upon service, or in a command of any consequence; but I protest I should go out with some degree of uneasiness, after the doctrines that have been advanced. I have ever understood that circumstances may arise, which would render it meritorious even to plunder a mosque, or a zenana. Gentlemen talk very finely in this House of what Mr. Hastings ought to have done; that if the necessity had been so great as I have stated, he should have got money equally from different people. But how, or from whom? The Nabob owed us a million sterling—he had neither funds nor credit beyond a certain extent—his mother was known to have more than a million, which her eunuch had stated was a treasure accumulated for an emergency—a state emergency. What, then, is the question? Had her conduct been of such a nature as to justify Mr. Hastings for permitting the Nabob to seize this money for the Company's use, when the existence of the British empire depended upon it?

Before I sit down, permit me to say a few words on the pathetic manner in which the hon. gentleman has painted the distresses of the eunuchs Jeuar and Behar Ally Cawn. I do assure that hon. gentleman, that I have seen scenes of distress in my own country far exceeding any that I have seen in India, except during the year of the dreadful famine in Bengal, in 1770; but with regard to the severities used in the recovery of debts in England, if he will visit the King's-bench, or the Fleet prison, he will find scenes of woe that would wring the heart of man, and far, very far, indeed, exeeeding any hardships that were sustained by these eunuchs. I allow that the custom of imprisoning for debt is a horrid one, if it could be avoided: but it is a notorious fact, that men of great property in India will submit to a confinement for months, and to every species of indignity, if by so doing they can avoid the payment of their debts. The present question is perfectly clear, in my opinion. Mr. Hastings, acting from undoubted information, took a strong measure relative to the Begums, and procured in one month a payment of 55 lacks for the Company. Upon such grounds, if the House of Commons of Great Britain should be of a different opinion, I hope they will in their justice repay this money to the Begum, which, with the interest upon it, will amount to a million sterling, and that they will applaud Mr. Hastings for an act which preserved India to Great Britain.

I must beg leave to mention one circumstance more which has been most unfairly stated. Mr. Hastings in Sept. 1782 received a present of ten lacks of rupees in bills from the Nabob and his ministers, drawn upon the house of Gopaul Doss, the first banking-house in Hindostan. Though the bills were accepted, they were slowly paid, owing to the confusion of the times, and to Gopaul Doss, the head of the house, being then a prisoner

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with Cheit Sing. By the first dispatch, the Nancy, the same vessel which carried home Mr. Hastings's narrative, he states the circumstance to the court of directors: he applies the money to their use; and knowing that they had on former occasions rewarded their servants, he has the presumption to ask them to consider him, and to give him this money when they can better spare it. Here is the plain matter of fact; and it has not the slightest connexion with the subsequent seizure of the Begum's treasures; nor was the money paid from the produce of those treasures: it was paid by bills drawn in Sept. 1781, accepted at that time, paid by the banking-house of Gopaul Doss, and, in fact, as the money was received, it was carried to the Company's credit.

Mr. *Pitt* said, that from the earliest period of an attempt to investigate the important charges now in question, he had considered the matter in a light serious beyond description, most deeply involving, not alone the honour and character of the House, but the integrity and reputation of the party accused. It therefore behoved the committee to deliberate with the greatest temper, and not to decide in any one stage of the business without having previously made the fullest investigation of every fact stated in each particular charge, and a careful comparison of the whole of the evidence adduced, with the facts charged, both in favour of the person accused, and in support of the accusation laid against him: so that gentlemen might give their votes upon the fullest conviction. This had been the line of conduct which he had pursued from the moment that the subject had been first submitted to the consideration of Parliament, and as he had ever been of opinion, that the charge relative to the princesses of Oude, was that of all others which bore the strongest marks of criminality, so he had been peculiarly careful to guard against the impression of every sort of prejudice, to keep his mind open for the reception of that which could alone fairly and conscientiously establish innocence, or bring home conviction of guilt; and in order the better to enable himself to decide with safety, he had, with the utmost attention, compared the charge, article by article, with the evidence adduced at the bar in support of each, and with the various minutes and letters brought before the House, or any where to be found within his reach: happy, indeed, he felt himself, that the committee had not obliged the debate to proceed the preceding evening; for, he made no scruple to confess, that he was now prepared to give his sentiments upon the charge with much greater satisfaction to himself, than he could have done on the preceding night. Conscious that he had no other view in wishing for the adjournment, than an anxious desire to satisfy his own mind by a comparison of the different sentiments he had heard that day with each other, in the first instance, and with the opinions he had formed before, made him indifferent to those suggestions which were thrown out, as if there was some sinister motive in his breast which prompted him to support the question of adjournment. The charge had been brought forward in a manner altogether so unprecedented, as far as eloquence and abilities were concerned, that it was an additional reason for his feeling himself happy at the pause that had been afforded the committee, since it gave him an opportunity of coolly considering the arguments that came with such irresistible force from the hon. gentleman, and of examining with more scrupulous investigation, than he could possibly have done while he was under the immediate impression they had made upon him; and it was with great ease to himself that he could now rise and declare, that the result of this deliberation would be a concurrence with the question: but at the same time that he made that declaration, he thought it necessary to say, that although, for the reasons he should state, he meant to vote with the hon. gentleman, yet he wished it not to be understood, that he acceded to the whole of the grounds of accusation contained in the charge, or the inferences that had been drawn from them. There were parts of the charge that, so far from appearing to him to be matters of impeachment, he could scarcely agree to consider them as matters of accusation: but, concurring as far as he did, he should be ashamed if he did not state the reasons upon which he had formed his opinion, and that he would do in as few words as possible.

In the first place, he should lay wholly out of the case, all the unnecessary articles of the charge, and come at once to the great fact, that of permitting the resumption of the jaghires to the Nabob Vizier Asoph Ul Dowlah. He entered here into a distinction of the degree in which this fact differed from all the others of this

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charge, and pointed out how far it was or was not a matter of accusation. He spoke of the treaty entered into by Mr. Bristow in 1776, and traced all the subsequent proceedings with the Nabob down to the treaty of Chunar, pointing out the situation in which the Company stood as guarantee of the treaty in both instances, and expatiating with great energy on the nature and duties of that situation. He next mentioned the seizing upon the treasures of the Begums, as the still greater and more important part of the accusation; and in order that the committee might the more precisely understand the circumstances that tended to confirm its being of great weight, as a matter of criminal charge, he called their attention to the particular period of time in which it was first mentioned, that in which proceedings of any sort took place upon it, and that when it was carried into execution. He stated the difference between the two facts, the resumption of the jaghires, and the seizing upon the Begums' treasures; and said, he greatly feared it would be found that the latter measure was never thought of till the former was about to take place, and that no good cause could be assigned to justify the latter having been executed. This he was rather apt to believe, as it appeared to him that the complaint of the Begums being in resistance on account of the taking of the jaghires could not be true, as the fact would turn out that the treasures were first seized. He contended, that as to the resumption of the jaghires, there were situations in which that might be justified. In a country with a free constitution like Great Britain, they all knew that grants of the Crown, and even the private freehold of an individual, could, in certain cases, be taken away; and surely principles of justice that would apply here, might without any violence apply in a country the constitution of which was not so free. He instanced the patent places in the Auditor of the Imprest's office, lately abolished, and a variety of other patent places abolished, where it was thought they stood in the way of public convenience. In Scotland the heretable jurisdictions had been, in like manner destroyed, and so in India upon an equivalent given, the public conveniencies might require that the jaghires should be resumed. Indeed, when it was considered that the disturbances of Oude had been notoriously owing to the number of independent jaghireships, as a measure of vigour, and to restore government to its authority, such a step, on grounds of policy and public safety, might be justifiable.

Mr. Pitt now came to the second great point, the fact of having seized the Begums' treasures. There were two views, in either of which it was possible to make out a defence for Mr. Hastings, provided it were in his power to establish the grounds of justification; one was, if it could be made out that Mr. Hastings had seized them as a fine or forfeiture, with a view to penal prosecution, and as an example of justice; the other, the ground of state necessity; but as that was a plea of infinitely greater latitude than the other, so it required to be the more clearly ascertained and established. With regard to the first, had they been seized with a view to punishment, as an example of necessity, the seizure must have been preceded by a process, and have gone through some forms, because judicial proceedings had their indispensable forms in all countries, however different the forms might be. The other view, that of necessity, was a view which called for nice ascertainment; the size of the emergency must be proved, or at least it must be proved that Mr. Hastings either saw, or thought he saw, a storm gathering round him, and he was bound to make out that fully and sufficiently. Having stated these two ways in which the seizure of the treasures might be defended, Mr. Pitt argued each, and put them into a variety of different lights; but, he said, it was clear that in the case of Mr. Hastings there was not the smallest trace of either to be discovered.

With regard to the report of the Begums having been in rebellion, the letter that first led at all to such an idea, was one written by Mr. Middleton, and dated Oct. 17, 1781, which, upon the face of it, appeared to be highly in favour of Mr. Hastings. He read the words to which he alluded, and mentioned, that it was written just after Mr. Middleton had returned from Chunar, where he had been with Mr. Hastings, and contained some copies of letters from col. Hannay, &c. In this letter of col. Hannay, it was hinted that there were reasons to suspect that there was a general plan of treachery on foot; no farther notice, however, was taken of this for some weeks, and then afterwards an order was sent to Mr. Middleton to institute an inquiry; but it was remarkable, that an order to carry the seizure of the

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treasure into execution was sent at the same time. Mr. Pitt commented on these facts, and upon the affidavits annexed to Mr. Hastings's pamphlet, stating what material information was to be found in those affidavits. He reasoned upon the bare possibility, but gross improbability, of the Begums being in rebellion, and mentioned the preservation of capt. Gordon at the express instance of the Begum, as an incontrovertible proof of the attachment of that princess to our interests. He particularly animadverted on the time at which this event happened, and owned that he had been inclined to believe, that the circumstance took its rise in affected lenity, having understood that news had reached the Begums of the successful aspect of our affairs just before captain Gordon's danger, and that they, in consequence, were anxious to wear away the remembrance of their treacherous intentions as soon as possible, and therefore gladly seized on the occasion of affording protection to captain Gordon; but all this opinion, he was now fully satisfied, had been ill founded; he now knew that the Begums, so far from at that time thinking our affairs wore a prosperous appearance, were not undeceived as to the report of Mr. Hastings's disaster, and captivity at Benares: their pure zeal and attachment therefore was unquestionable; and, that once admitted, all doubt of their being ready to join, or in actual confederacy against us with Cheit Sing, was in the highest degree improbable. One circumstance seemed, indeed, a considerable aggravation of the fact of seizing the treasures of the Begums, and that was, the making the Nabob the instrument. A son the instrument of robbing his mother! With regard to the manner of seizing the treasures and persons of the Begums, and the cruelties practised on their ministers, of those charges he acquitted Mr. Hastings entirely, since there was no evidence to prove that he either took any active part in enforcing either, or knew any thing about them. Another circumstance had arisen which he considered again as an aggravation of the crime of Mr. Hastings; and that was, his stifling the order of the court of directors, his masters, when they sent over an order for a revision of the proceedings at Fyzabad. That inquiry Mr. Hastings prevented. Mr. Pitt declared that he agreed with Mr. Sheridan in many parts of his argument, in some of which he had given him a new view of particular transactions: but there was one thing that marked his speech, that he thought rather wrong, and if he had not perceived that it arose from real feeling, he should have endeavoured to have checked him at the moment; he alluded to the too great warmth and personal severity with which he spoke of the party principally interested in the proceedings. Were a great man, in the true sense of the expression, entrusted with the government of a country, and, at some critical period, reduced to the necessity of risking all for the public, if he could not willingly consent to hazard his character, his honour, nay his life, for the service of those whose welfare and happiness it was his duty to preside over and secure, he was unfit for his station, and ignorant of its first and greatest obligation. Such a man knew not what public duty was, nor could he have felt what public virtue was. Had Mr. Hastings been able to prove that he had acted on such principles in Oude, Mr. Pitt declared, that though he might have lamented his errors and their consequences, he would not have withheld his applause, his support, and his remuneration. He took notice of the contradictions evident between the different defences of Mr. Hastings, and his letters written in 1781 and 1786, and declared that he had endeavoured to suffer these circumstances to impress his mind as little as possible, because it was no crime in a party accused to make a contradictory or a weak defence. These contradictions, however, could not but occasion some jealousy, to say no worse of them; and he must add, that he thought some of the means of defence resorted to, very unworthy means indeed for a great man, on such an occasion, to make use of.

Mr. *Sheridan* said, that he entertained too grateful a sense of the liberal indulgence of the House on the preceding day, to think of trespassing at present, for any length of time, upon their patience. Several gentlemen had done him much greater honour than he deserved; but he could not but feel and acknowledge it to be a compliment when the right hon. gentleman was pleased so far to flatter him, as to say, that the arguments he had taken the liberty of troubling the House with, had in any degree contributed to fix his vote in its support. Of such a compliment he was indeed proud, because, conscious as he was that he stood up in a good cause, the advocate for millions, and

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the advocate for strict justice, to find he was likely to prove successful, could not but afford him the most solid satisfaction. He was the more happy also, as the right hon. gentleman by his conduct had proved, (what he should always be happy to bear witness to), that however the right hon. gentleman, and those with whom he acted, had differences, and sometimes warm ones, on various political occasions, yet, when a great national question that called for the aggregate support of Parliament fell under consideration, their political and party differences sunk into petty jars, and the right hon. gentleman, laying aside all party considerations, was ready in an open and manly way to come forward, and prove himself a minister who felt for the honour and character of that House, and for the honour and character of the country. With regard to the objection the right hon. gentleman had taken at his having expressed himself rather too warmly respecting the individual principally concerned in their present proceedings, he was extremely sorry if that had been the case. He neither felt nor professed to feel any malignity against Mr. Hastings. Those who knew him most intimately, he believed he might without vanity say, knew that he had no malignity in his composition, and that he was not capable of feeling such an unworthy passion against any man. An hon. major had thought proper to mention a conversation once more, which once before had been mentioned in that House, at which he was a little surprised, as the committee would, without doubt, recollect that the hon. major had been under the necessity of acknowledging that he had been mistaken in some of his most essential particulars. If the reason of the hon. major's allusion of that day had been owing to a part of his speech the preceding day, when he had talked of Mr. Hastings's dependents, he assured the hon. major, he did not mean him. When he stood up in that House the public accuser of Mr. Hastings, he should be ashamed, indeed, if he could be thought capable of alluding to any gentleman who had a right to a seat in that House, and call himself the friend of Mr. Hastings. The hon. gentleman had that day said he was under obligations to Mr. Hastings; that being the case, his motives for attachment to Mr. Hastings were truly honourable. Gratitude was a virtue, amiable even in error. There was something in the frame of the mind of man which accorded with grateful feelings, and where the heart owed an obligation, the judgment could not be acute. Far be it from him, then, to find fault with any one who acted upon so noble, so praise-worthy a principle. Mr. Sheridan now added, that, after the vote of that day, Mr. Hastings and the House would be at issue. The business must then be removed to the proper tribunal; and he begged in the interim that gentlemen would recollect (for they seemed a little to forget), that their votes upon the distinct charges did not go to make Mr. Hastings a criminal, and they were not acting as judges, but as prosecutors. The judgment-seat was placed elsewhere; and if Mr. Hastings should be acquitted, unworthy indeed should he hold that man who either within or beyond the walls of Parliament considered Mr. Hastings otherwise than innocent.

The *Solicitor General* said, that he could not vote for an impeachment, whatever he might think of the criminality proved in this charge; and therefore, without entering at all into the consideration of the merits of the motion, he would not vote upon it.

Mr. *Vansittart* read a part of Mr. Hastings's letter of 1782, to prove that he had sent the directors at home an account of his having received the present of 100,000*l.*, and that he meant to carry it to their account before he had received any of the money, which he considered as an unanswerable reply to the arguments urged by Mr. Sheridan on the preceding night, touching the present he received at Chunar. Mr. V. contended, that releasing the Nabob from his guarantee was no crime.

Mr. *Fox* rose to say a few words upon what had fallen from Mr. Pitt. When the charge relative to Cheyt Sing was discussed, their votes had been the same, but their arguments had differed exceedingly: now, that they appeared to be but trifling, and not more than one or two in number, it would be easy for him to state in what respect they differed. Mr. Fox then took notice of Mr. Pitt's having said, that he would pass over the contradictions in the different defences of Mr. Hastings, and consider them as mere matter of jealousy; he begged leave to remind the right hon. gentleman, that the false accounts of transactions in India sent home to the Directors by Mr. Hastings in 1781, and which were now acknowledged to be false, was, in a servant of the

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Company, of itself, in his opinion, a matter highly criminal. Another thing had fallen from the right hon. gentleman, which he could not consent to, and that was this: the right hon. gentleman had said, Mr. Hastings was not answerable for the manner of effecting his orders to seize the treasures of the Begum, or for the severities practised on their ministers: that he must deny: whoever in Great Britain directed a felony to be committed, was answerable for all the consequences. Mr. Hastings gave orders for the plunder of the Begums; he directed it to be carried into effect, and he was answerable for all the consequences. An hon. gentleman had talked of Mr. Hastings sending home advice of the present he received to the Directors. Undoubtedly he did so; but how? He wrote home word that the sum was too large to be concealed; that he had put it to their account; but he begged of them to let him have it for himself. The right hon. gentleman talked of releasing a guarantee, as if it were a slight matter. What, violate the solemnly-pledged faith of the Company, break a guarantee, and call it a trifle! The act was in the highest degree criminal.

Mr. *Dempster* said, that his ideas concerning the defence of Mr. Hastings were so different from those of other gentlemen, that they were likely to injure the person he meant to serve; for this reason he had hitherto generally given a silent vote upon the days when the charges had been heard; but as he now foresaw he should vote in a minority, he would venture to declare why he thought Mr. Hastings ought not to be impeached. When this country granted a power to the Company to conduct the government of their territories in India, they authorized the sending out governors to act at discretion as the necessity of the case required; and unless it could be proved that they acted from motives of personal corruption, for what they did upon the principle of state necessity, they ought not to be held amenable; for governors exercising power at such an immense distance as India, could not be called to account like British ministers at home. He justified the treatment of the Begum's eunuchs, by saying the custom of the East sanctioned such severities; that money was there collected by the whip, and that stripes were the usual means of our enforcing payment.

Mr. *Boughton Rous* said, that although he was ready to concur in opinion with the hon. gentleman who spoke last, that the conduct of persons who had been employed in stations of great power in India, ought not to be scrutinized by those rigid maxims which belong to our own constitution; yet he could not allow a justification to be set up for Mr. Hastings by reference to a supposed practice of cruelty in the revenue system of Bengal, which he did not conceive to exist. He mentioned some circumstances to show, that the custom of enforcing the collection of the revenues by corporal punishment, was either absolutely discontinued by the English, or that it prevailed infinitely less than it had done before the country came into our possession.—As to the question before the committee, Mr. Rous said, that, according to his idea of the jaghire tenure in India, and of those jaghires possessed by the princesses of Oude, he held the resumption of them to be a justifiable act, upon principles of general policy, even notwithstanding the guarantee of the Company's government, provided an equivalent was secured to them in money. But he did not think sufficient grounds were laid to justify the seizure of their treasures, and therefore he must join in the resolution proposed, at the same time without pledging himself, in the present stage of the business, necessarily to vote for an impeachment, or to reject the plea of extenuation, in case there should appear, as he thought there would, in discussing some of the remaining charges against Mr. Hastings, matter deserving rather the applause than the censure of Parliament. He here made an appeal to the candour of those gentlemen who had been in India, and whose residence in that country had unquestionably qualified them to judge between him and the hon. gentleman who spoke last, to say, whether the cruel treatment mentioned by the hon. gentleman, or the direct reverse of the propositions, was the most distinguishing feature of the English government in Bengal.

Mr. *Le Mesurier* defended Mr. Hastings with considerable warmth, denying that any one person in India called for the crimination, much less his impeachment, although it had been said that millions complained of his conduct.

Mr. *Samuel Smith* said he trusted, even at a late hour, that the situation he formerly held, and the circumstances under which he quitted it, would secure to him the attention of the committee for a few minutes: he rose not merely as the advocate of Mr.

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Hastings, but in defence of public situation, called upon to act for the preservation of the state, in great and critical moments, when it is necessary to decide without much deliberation, and the salvation of the empire may depend upon immediate action. Under such circumstances, and when the great end has been attained, he said that it was surely hard to criminate, because in the execution of it there may have been some errors, which never would have arisen in cases where the subject could have met a cool deliberation. That the severity towards the Begums in the execution of those plans, was made necessary to be carried into effect with firmness, from the situation in which the empire then stood, and when a want of decision might have lost it, was contended as a criminal charge against Mr. Hastings, and argued as wanton acts of cruelty; surely it was a little unfair to attribute it to such motives, when the whole tenour of his private life gives a complete negative to such an assertion. That he would venture to say there is not a more humane, a more benevolent, a more generous man, or a man more open to the calls of private friendship, or who during his administration had been a better friend to the distressed, or more liberally relieved them. That he would, for one, never admit that good and amiable principles in the private man, could be so contrasted in the public. Had there ever existed in this or any other country any administration, the most pure, whose every act would bear the test of abstract investigation? If such conduct is difficult to stand the trial of complete perfection in a free government like this, how much less is it to be expected in that of a governor sent to rule a people accustomed to despotic government, and prone to look upon every relaxation of severity and enforcement, as a weakness in the executive member of it? That a people used to the habits of an absolute ruler, were but ill formed to receive, or to be controlled by the lenient measures of a British constitution. He observed that this nation was a humane one, and easily roused by the call of oppression. That he would state it fairly to the committee, and defy any one to disprove it, that notwithstanding all that has been said within those walls, and all the publications that have made their appearance without them, that the nation did not feel to this moment that Mr. Hastings had acted wrong, or that he was an object of impeachment. He said—Is there any nation in Europe that does not feel or know the services he has rendered this country, and that it was his measures and firmness that defeated the designs of very able men sent to that part of the world, to counteract his plans, and to conspire our ruin? We are trying, says he, government upon the narrow scale of private life; we are holding out that, in the exertions to save an empire, the scope and tendency of the measure shall be laid out of the question, and the little errors that may have arisen, become the subject of impeachment. I am sorry to remark, that there seems to be but little inducement for a man to risk any thing in the public service, or to exert himself beyond the cold line of official duty: this country, at some future time, may feel the effect of such a doctrine. Confirmed in my opinion, that it is uncandid to try Mr. Hastings by the discussion of minute parts of his conduct, on questions of abstract proposition, and without taking into our view the scope and tendency of it, and the material benefits that have resulted to this country, and which it every hour feels, I shall give my decided negative to the question.

The Committee divided: Yeas, 175; Noes 68.

Debate in the Commons on a Motion for taking the Treaty of Commerce with France into consideration.] Feb. 2. Mr. *Pitt* gave notice, that it was his intention to move that the Treaty of Commerce with France be taken into consideration on Monday se'nnight, the 12th instant.

Mr. *Fox* thought the day too early; so much so, that he was amazed the right hon. gentleman should think of naming it.

Lord *George Cavendish* intimated, that as the Treaty was a matter of great importance, inasmuch as it deranged all our ancient and established treaties of commerce with other countries, a call of the House might be proper.

Mr. *Pitt* replied, that although sincerely anxious to have so important a subject investigated before the fullest assembly possible, yet he believed, from the circumstances of the present suggestion, that he should be fully justified in giving it his hearty negative. In short, he looked upon the suggestion in no other light, but as an artifice to delay the consideration of a subject, on which reason and sound policy required a speedy determination. If a call

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of the House were really necessary, what excuse could be made for having delayed it so long? Was it, that, until the present moment, they had never considered the Treaty as an object of sufficient importance to justify a call of the House? or would they pretend to say, that they had never known, until now, that it was the intention of ministers to bring it forward as early as possible? He begged leave to remind the noble lord of the expressions of Mr. Fox on a former day, "that the pending Treaty had given rise to so many speculations, and had so materially affected the operations of our manufacturers and merchants, that it became highly necessary to bring it to as speedy a conclusion as possible, in order to put an end to that suspense which its present unfinished state must necessarily give rise to, and a continuance of which must be highly detrimental to the interests of those concerned."

Mr. *Fox* rose with great warmth to declare, that he never would consent that the House was to neglect its duty to the country, and go precipitately into the consideration of a measure of great national importance, because any set of men whatever, however respectable their characters, however numerous their description, had thought proper to run before the sanction of Parliament, and enter into speculations which they were by no means warranted to risk engaging in. The right hon. gentleman had alluded to what had fallen from him on a former day, as if he had called for a precipitate and hasty discussion of the Treaty; whereas, what he had said, was not that because any set of men had rashly speculated upon the grounds of the Treaty before it had received the sanction of Parliament, that therefore the deliberation of the House ought to be accelerated, but that whenever the House had deliberated upon it, and passed a vote of approbation—should such a vote pass—it was their indispensable duty to proceed to the carrying it into execution with all possible celerity, in order to realize those speculations, that the vote and sanction of the House might, as it were, have authorized and encouraged. It was the execution, and not the deliberation, that he wished to have hastened; and therefore, when the right hon. gentleman thought proper to quote what he had said on any former day, he wished he would be so good as to quote him with something like correctness. It was the characteristic of the right hon. gentleman's administration to be precipitate in deliberation, and lingering in execution. In most of his measures he had been hasty in coming to the decision of a vote, and he had almost as often had occasion to lament the want of greater deliberation; but he had scarcely ever been equally prompt to carry the vote into execuion after it had passed. With regard to the call of the House suggested by his noble friend, he was astonished at the right hon. gentleman's objecting to it. A call of the House had sometimes been vexatiously made, but it had scarcely ever been refused when desired by any member. That it was now in common decency proper, who would be hardy enough to deny? A measure more novel, or more important, had perhaps never come under the consideration of the House. The right hon. gentleman told them himself the measure was important; the House knew it to be important; the whole country felt it to be important. Would the business, did the right hon. gentleman think, derive a grace in the eyes of foreign Courts, from its being there known to have been rashly and precipitately brought on, and that a call of the House, a thing usual in cases of infinitely less magnitude, had been refused? There was something so ungracious in a refusal, that he was astonished the right hon. gentleman would hazard it.

Mr. *Pitt* ridiculed the idea of procrastinating the consideration of the Treaty, under the specious pretext of more serious deliberation. It was in fact only an affectation of deliberation, for it was nothing more than putting off, as long as possible, the time for beginning to deliberate, which, in effect, was the sure way to render their deliberations short and sudden—it was like taking time to deliberate previous to deliberation, and put him in mind of the thought, "of a man falling down in a fit of perplexity, thinking of nothing."

Mr. *Fox* replied, that he never had dreamt of arguing in the illogical, nonsensical, and absurd manner that the right hon. gentleman had ascribed to him; though he was ready to admit, that on a former day the right hon. gentleman had so represented him to have argued; but that misrepresentation had been so ably and so completely corrected and cleared up by two of his hon. friends, (Mr. Francis and Mr. Burke) that he had not thought it necessary on that day to trouble the House with any

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explanation himself. Indeed, it would have been a bad argument for him to have used, had he urged the necessity of precipitating the deliberation of the Commercial Treaty with France, in the very same speech in which he was maintaining, that it was impossible for the House to be competent to decide on that Treaty, unless they previously had submitted to them, authentic information of the state of our trade with Portugal, as it stood at present, and as it was likely to stand hereafter. With regard to the right hon. gentleman's quibble, that if the day of deliberation was deferred, the House would be in the state of "a man, who fell down in a fit of perplexity, thinking of nothing," in the interval of the delay, he neither thought the sort of allusion very decent to use within those walls, nor was it at all respectful to the House, talking of them generally, to apply such an allusion to them. The right hon. gentleman was welcome to apply such allusions to him personally, but to the rest of the House, a little more decency and respect was due. Did he believe that the House, because they at any time postponed the deliberation of any measure of great national importance, from one day to another, "thought of nothing" in the interval? Was it a fact, that gentlemen so far lost sight of and neglected their duty, as not to prepare themselves without doors for the discussion of great questions to be decided in parliament? Many measures were of a nature, to the proper consideration of which, few of the members of that House were competent. Questions of commerce and trade, more especially, were questions, which members of parliament, generally speaking, were not quite so well informed upon as other persons. Before gentlemen, therefore, could make up their minds to the proper vote they ought to give on the Treaty, they must inform themselves by conversing with those whose avocations and professions enable them to be more conversant with commercial subjects. As to the day of deliberation being desired to be procrastinated, it was a necessary procrastination, and not as the right hon. gentleman had called it, "an affectation of deliberation, and a mere putting off the day of beginning to discuss the Treaty." What was the day? Perhaps the debate might be of so much length as to be adjourned, and so occupy two days, or more. Still it would be but a single debate, and would all be decided by a single vote. Would the right hon. gentleman, therefore, contend, that too much reasonable time could be taken in order to enable gentlemen to examine a question of so much novelty, and such acknowledged importance, before they came ultimately to decide upon it by their vote? If the argument of the right hon. gentleman, that the importance of the question alone was a greater motive to cause a full attendance than any call of the House, were a sound one, upon that principle, all the calls of the House, that had hitherto taken place, had been idle and absurd.

Feb. 5. Mr. Pitt moved, "That this House will, upon this day se'nnight, resolve itself into a committee of the whole House, to consider of so much of his Majesty's Speech, upon the 23rd of January, as relates to the Treaty of Navigation and Commerce with France."

Lord *George Cavendish* said, that still persevering in his sentiments, that on a discussion so truly important as the treaty with France, there should be the fullest possible attendance, it was his design to move for a call of the House. He wished to do this in order; but the motion now made by the right hon. gentleman precluded him. The period was too short for a call. He must therefore move an amendment, by substituting the words "this day fortnight" for "this day se'nnight," and then he should follow the motion thus amended by a motion for a call of the House.

Mr. *Fox* rose, and remarked that in consequence of the numerous opportunities which had arisen to confirm his idea, that the disposition of the right hon. gentleman was sanguine even to excess, he felt a slighter degree of astonishment at discovering that on this, as on other important topics, he should violently urge the House on to the consideration of the treaty. But the same experience which he in common with other members had of the consequences of rashly falling in with the wishes of the right hon. gentleman in this respect, prevented him from readily believing that the House would go rashly with him into a discussion, so novel in its quality, and so pregnant with consequences either good or the contrary. It was a new system, in which not only the established doctrines of our forefathers were departed from, but by which the great and most essential principles in our commerce, prin-

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ciples which, whether wise or erroneous, had made us opulent, were to be completely changed. Surely, a system affecting thus our commerce in its most vital parts, affecting our most intimate and advantageous connexions, and which, though it held out present profit to certain branches of our manufactures, threatened, according to some opinions, ultimate loss to them all, if to be admitted at all, was a system only to be admitted after the most serious and deliberate discussion. What must be the consequences to the character of the nation—what to the dignity of their proceedings, if they should suffer this business to go forth from their hands, accepted on bad grounds, partially stated, and not thoroughly understood?

There was one thing particular in this treaty—one in which it differed from all that ever went before it, and which tended very much to strengthen the argument for a serious deliberation—and that was, that we must take it all or none. It was not a measure, into the detail of which the House could enter with the precaution incident to other topics, of adopting only what part they liked. They must adopt and embrace the whole of the system, or reject it all. On this occasion, though he would not be construed to say, that the general vote given by the House would preclude them from going into the detail, still there was in this measure something essentially different from most questions; for their going into a committee on that day se'nnight, as they were desired to do, was not to be considered as the beginning of their deliberation—but on that first discussion, the opinion of the House was to be called for, he supposed, to the general question of the admission of the treaty. It was, therefore, highly incumbent on them that they should have time maturely to weigh the consequences of a vote which was to have so much effect on the final discussion of the subject. An occurrence had arisen, the memory of which ought to influence the House on the present occasion—the treaty of navigation and commerce with Ireland; that treaty which was better known to the House by the Irish name of the Irish propositions. On that subject, as on the present, the right hon. gentleman deprecated delay. He objected to the arguments of those who recommended to him time and thought. He desired then, as now, to hurry them on without time for inquiry, or for collecting the opinions of those who were the most able to judge of the expediency of the measure. Ought not the right hon. gentleman to be thankful to the House for not yielding to his rash proposals? For what must have been the consequences to this country, if the propositions had passed in the indigested shape in which he brought them into parliament, and pressed them on its acceptance? All the dangers would have been incurred which the right hon. gentleman himself afterwards so forcibly enumerated. Fortunate for the country was the wise caution of the House in that instance—fortunate for the right hon. gentleman himself—fortunate, indeed, had been his failing in this as well as in other pursuits, when he has been rescued by the wisdom of the House from the dangers of his own rashness! Never had the good fortune of the right hon. gentleman been more apparent than when he had been unwillingly brought to delay the discussion of his hasty projects; and when the good sense and sober judgment of the House had snatched him from the impending ruin of his sanguine measures. It was not only in the instance of the Irish propositions that he had been thus fortunately checked. He had also brought in a plan for a commercial treaty with America, and that would admit of no possible delay. The House, however, had taught him the rashness of the proceeding; and that Bill he never brought again into the House. On that subject he had been made completely to change his mind, in consequence of the lights which he received by prudent delay.

The House would please to consider the size of the object which they were thus required, without the necessary information being granted, and without even providing for a full attendance of members by a call of the House, decidedly to investigate. They were to consider its influence on all that was great in the features of their general commerce—in the principles under which, whether right or wrong, that commerce had flourished—and in its power over their connexions with other states, and particularly Portugal. He must still urge, how greatly he felt himself alarmed at the state of our connexion with that power. He was not convinced that it would be wise for England to enter into a commercial connexion with France, unless it was clearly demonstrated that such a connexion was in no wise to affect our valuable connexion with Portugal. What was the alternative

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of this treaty? If there was to be no sacrifice of the revenue arising from wine, there was to be a sacrifice of the Methuen treaty. If the Methuen treaty was not to be sacrificed, then there was to be a sacrifice of revenue in the article of wines only, to the amount of between 150 and 200,000*l.* a year. He surely should not, in spite of this immense loss, hesitate a moment, if the necessity of the alternative was apparent, which side to take; for the Methuen Treaty had justly been considered as the commercial idol of England. There were extravagant rumours out of doors, if they were to listen to all the extravagant rumours circulated concerning the Portugal trade—that it had fallen off, and that it was no longer to be viewed in the same light as formerly. But to these rumours he could give no ear; and the House ought certainly to know the precise state of the trade. They were, on the contrary, called upon to act in the dark. The question, as far as the relation of Portugal to England went, bore three faces—They were, 1. to consider the French Treaty either under the idea that the duties on Portugal wines were to be lowered; or, 2. that the Methuen Treaty was to be sacrificed; or, 3. that there was a negociation pending. In which of these faces was he to consider the Portugal trade while discussing the French Treaty? It surely ought to be clearly and fully explained to the House, before they were called upon to come to this decision.

Another circumstance most forcibly demanded consideration. A Convention had been exchanged, and at length ratified—and this convention was so little of a piece with the Treaty, nay, was in some respects so totally dissimilar, that one might have conceived it as possible to decide on the merits of the Irish propositions in their last shape, from having read those which the right hon. gentleman first brought in, as to form a clear and conclusive judgment of the Convention from having read the Treaty. The Convention, which gentlemen had only received that day, contained adjustments of duties, and an arrangement of different articles of hardware, which were all so huddled together in the Treaty, that the most enlightened of the manufacturers and traders would be puzzled to decide at once on its precise merits. A fortnight only was desired. Surely, the right hon. gentleman could not be serious in objecting to a period so short. What could he possibly have to fear from the delay? He had insinuated that the great body of the people were anxious for the completion of the Treaty. If the majority of the people were for the Treaty, surely he had nothing to apprehend from delay. If their approbation of it was well-founded, deliberation would only fix them in their opinions more thoroughly; but if he suspected that they were loud in their praise more from the novelty of the object than from their conviction of its merits; that they had, like himself, taken it up hastily, and attracted by the glitter of a French comexion, or tempted by the view of immediate profit, had not taken time to sit down and thoroughly weigh the merits of the case; then, indeed, the conduct of the right hon. gentleman as a temporiser might be right. He snatched at the seasonable moment to catch the transitory breath of their praise; and seized on their delusion to betray them into his toil. But he could not think so poorly of the right hon. gentleman. He surely could not be so content with a triumph so obtained. A triumph of this kind he might have had, in the fullest measure of national delirium, if he had pushed the nation to a question on the Treaty eight days after its publication. There were a sort of people to whom, in every instance, novelty was attraction. If a measure had the merit of being new and glitterring, they were soothed by its appearance, and for a time became subject to its fascination. But this was a sort of magic easily broken. It endured no longer than the novelty itself, and a rational estimate proceeding from cool inquiry followed the momentary intoxication of the senses. Surely the right hon. gentleman could find no true enjoyment in any other than the triumph which should proceed from the concurring voice of the country, seriously and deliberately pronounced in favour of the treaty which he had negociated. He must revolt from a triumph obtained by delusion and error. And while he thus earnestly requested time, he must again recall the memorable circumstance of the Irish propositions. What was the case there? When the right hon. gentleman was intreated to allow time for inquiry, and for collecting the sense of the people, he triumphantly pointed to the table, and inquired what petitions there were on the table. What was the consequence of this? The manufacturing bodies in every part of the country, gave the

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right hon. gentleman petitions in sufficient number; they gave him the most convincing proof, not only that he was opposed by the whole body of the people, but that he was wrong in every acticle of his scheme. From these gentlemen the House had also gained a complete treatise on manufacture and commerce—a treatise which, though given in the case of the Irish Treaty, was equally applicable to the French Treaty, and would for ever be referred to, and respected in every case of commercial discussion.

He should now beg leave to caution the House against entering rashly into the first discussion, because their first opinion delivered on the Treaty was so material. It was not on this as in the Irish Treaty—they had no parliament, jealous of the constitution, like themselves, to revise what they might do. He had been said to have delivered very free opinions about French perfidy, and perhaps he might not think that nation the most faithful in their political contracts of any people in Europe; but he never had said that they were so treacherous—that they were so unobservant of their public faith, as to suspect that if the British Parliament were to insert some small passage into the Treaty different from the present letter of it, they would reject the whole. The Irish did this. A clause inserted at the conclusion of the inquiry had the good luck to arouse the jealousy of the parliament of Ireland, and they, much to the satisfaction of every thinking man, rejected the whole scheme; but, in this instance, we had no such good fortune to expect, and therefore Parliament should be more cautious how they suffered a thing to pass, which, once out of their hands, was not likely to meet its doom elsewhere. Such sentiments as he had now expressed, would, he was assured, entirely bear him out in voting for the amendment; and the more particularly, as the consequence of its passing would be a full House, and its natural result, a close investigation of a subject, to which few, if any, were superior in importance.

Sir *Richard Hill* said, that the right hon. gentleman's argument against dispatch reminded him of his conduct respecting a measure of his own, when in office—the India Bill of 1784, on which occasion he would not give the House time to have a call take place, before he forced them to decide upon its principle. When that Bill was thrown out by the House of Lords, the people joined in praises and thanksgivings at their deliverance from a bill which aimed at setting up an unconstitutional power, and wantonly destroyed the chartered rights of the East India Company.

Mr. *Pitt* said, that the right hon. gentleman was always entitled to very serious attention; but on the present occasion, when he was endeavouring to postpone the discussion of the most important question that could possibly come under the consideration of the House, and which in its very nature required every degree of dispatch that could be given to it with safety, it was more than ever incumbent on him to use the most consummate care to comprehend the drift and tendency of his arguments. It was besides a matter of curious observation to mark the motives which could induce the right hon. gentleman, whose general characteristic had not hitherto appeared to be procrastination, to wish to impede the discussion of such a subject as the present. Could the smallest affinity be made out between the Commercial Treaty with France, and the right hon. gentleman's India Bill, he should shudder at the thought of bringing the consideration of the treaty forward at all, and would readily acquiesce in every project of delay which the right hon. gentleman should make. On a question so much at variance with the principles by which the right hon. gentleman's own practice had been governed, it was naturally to be expected that he would have exerted all his ingenuity, to avoid the appearance of that inconsistency with which, in his political measures, as well as in his political connexions, the public opinion had long since charged him. But the right hon. gentleman's arguments, however pointed they might be, were by no means methodical and regular. He should therefore endeavour to arrange them in some sort of order, and give them severally and distinctly such answers as he was able.

The first argument used by the right hon. gentleman, in favour of a call of the House, was, that such a measure was obviously right and proper, when a subject of such consequence as that now under consideration was to be discussed. To this he should answer, that certainly a full attendance was extremely desirable on such an occasion;—but surely no man would pretend to say, that a call of the House at the present day would give any better promise of a full attendance than

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what might be collected from the appearance of the House at that moment, or even if the House were not full, might naturally have been expected from the magnitude of the subject itself; these circumstances would in themselves be sufficient to insure a crowded House, as was evident from the numbers then actually present; whereas it was on occasions where any business of magnitude unexpectedly came forward, or where the importance of such business was not of a nature likely to impress itself on the minds of people, that a call was generally resorted to.—The next argument used for a call, was, that the present subject being evidently entitled to a full attendance, there had not been sufficient notice given of the time proposed for the discussion. In answer to this, he observed, that the treaty with France had been made public above four months previous to the meeting of Parliament. Then, as to the want of proper notice having been given of the intention of bringing it on at this period, he should state a few circumstances, to shew that no consideration whatsoever was due to the argument. In the first place, the treaty was in itself of such a nature as necessarily demanded a speedy conclusion. In the next place, it was the subject which his Majesty in his speech had recommended most pointedly to the attention of Parliament. Mr. Pitt now recapitulated all that had passed concerning the treaty since the meeting of Parliament, pointing out that it had been his constant practice whenever it was mentioned, to speak of it as a thing necessary to be taken up immediately.

On the whole, whether such a measure were necessary or not, it was certain that the conduct of those who attempted to bring it about was not such as to give any weight to the proposal; but, for his part, he should be perfectly indifferent about it, were it not for the delay which it must necessarily occasion, and his conviction that a call of the House would not prove a means of bringing a single member more to it than already attended. The call had also been enforced under the idea of giving gentlemen an opportunity of consulting their constituents on the subject of the treaty, before they should come to any decisive vote upon it. As to this, he hoped that no gentleman had come up to Parliament without having performed that very necessary part of their duty,—the making themselves acquainted with the sentiments of their constituents on a subject in which their interests were so materially concerned. And he called upon gentlemen who represented those parts of the kingdom which flourished most in manufactures and commerce, to declare what were the opinions of their constituents on the subject, and what was the state of expectation and general interest which had been excited in those parts by the prospect of the completion of the French treaty. He would even, on this occasion, appeal to an hon. gentleman, to whom he should not in general wish to refer a question in which he felt himself deeply involved. He would appeal to the member for Norwich (Mr. Windham) whether he had the authority of his constituents to delay or restrain the execution of the treaty. The right hon. gentleman had made another effort in support of delay. The convention entered into with France, subsequent to the conclusion of the treaty, had given him a ground for this part of his conduct. The convention having been concluded, for the purpose of arranging the detail of the general principles established by the treaty, the right hon. gentleman had argued that time ought to be given to gentlemen to examine the several articles of that detail before they were called upon to form a conclusion as to the principle. He would take upon himself to say, that no gentleman who had read the convention would venture to assert, that there was a single article contained in it, which could or ought to have any effect on the judgment of the House with respect to the principle of the treaty.—The third argument of the right hon. gentleman had a reference to the pending treaty with Portugal; and the right hon. gentleman had contended, that if they were to be in a state of ignorance as to the event of the treaty, it would be highly improper to proceed to a confirmation of the French treaty; whereas if we were to have an account of the fate of that negociation, then they would so far be enabled to go to the consideration of the treaty. If there was any strength in this argument, he was willing, he said, to allow the right hon. gentleman the benefit of it in its fullest extent; and he would freely acknowledge, not only that the treaty with Portugal was not yet concluded, but that there was no prospect of its being concluded previous to the day proposed for the discussion of the treaty. Therefore, if the argument could at all

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tend to support the requisition for delay made by the gentlemen opposite, they had the full benefit of it. At the same time, the concession, he believed, would turn out to be of no great use to them, when it should be found how the argument would apply. The right hon. gentleman had stated, that, in point of revenue, we were likely to become losers by the reduction of the duties on the Portuguese wines, which, if the provisions of the Methuen treaty were to be maintained, must, after the execution of the French treaty, be reduced by one third of their present amount, and had asked, whether the increased importation of French wines would be likely to compensate for that defalcation? To this he would answer, that whether in the article of wines or not, he was prepared to contend, when the treaty with France came fairly under discussion, that even supposing the duties on Portugal wines to be lowered, agreeably to the stipulations contained in our present treaties with Portugal, that even then, whatever falling off the revenue might sustain in that article, still it would be most amply counterbalanced by the various channels of commerce which this treaty would necessarily then create or improve.

The right hon. gentleman had reflected on him for his rashness in pushing forward his measures without due deliberation, and had admonished him (no doubt with great sincerity) to avoid bringing this matter to so speedy a determination for fear of consequences, which, though he had sufficient vigour of imagination to foresee, he yet had not discrimination or accuracy enough to enumerate and describe. But what did the right hon. gentleman mean to consider as precipitation and rashness? Did he hold it to be precipitate and rash to proceed, after more than four months public notoriety, to debate and determine on a measure, by which the attention of the whole nation was engaged, and in which the wishes and interests of those concerned were most materially involved? He remembered the time when the right hon. gentleman did not judge in the same way in which it would now appear he did. When he had the misfortune of sitting in the seat now occupied by the right hon. gentleman, he had an opportunity of making his observations on his disposition, and the principles by which he was governed on questions which required the most consummate deliberation. He remembered the right hon. gentleman to have introduced on the third day of the session, a measure which, from its novelty, its magnitude, its obvious effects, and the terror and alarm with which it filled every thinking mind in the kingdom, seemed eminently entitled to a most deliberate discussion, and a most minute investigation—a measure which, as if conscious of its own malignity, had crept under darkness, and shrunk even from a whisper, and until that day, had never been heard of in public: and yet, to this measure the right hon. gentleman, in the plenitude of his power and the ardour of his mind, refused to allow that delay, which, even on the most ordinary occasions, the forms of the House had rendered necessary!—a measure which violated every principle of the constitution, overturning the established maxims of government, unhinging the functions of the executive authority, setting up a new and most destructive power in the state, and trampling, without any concern or reflection, on the private property of individuals!—a measure, in short, which had stigmatized its abettors with universal odium, and would hand them down to posterity as objects of everlasting reproach! Such was the measure, which, without examination, without even a pause or scarcely a day's consideration, had been crammed down the throats of that House by the right hon. gentleman. At that time he endeavoured by argument, by persuasion, by entreaty, and deprecation, to restrain the right hon. gentleman from the ungovernable rashness by which he seemed actuated; but it had no effect. Here Mr. Pitt stated the different periods of the several stages of Mr. Fox's East India Bill in its progress through the House, and his own attempts to repress the rapidity with which it was pressed forward. Shortly after he had changed his seat in that House, yet he had brought with him his principles: but the right hon. gentleman had appeared to have most strangely altered his principles, and was ready, in his present situation, to give, even where the spirit of it could not apply, that advice which, in all cases of the most obvious necessity, he had himself haughtily and superciliously rejected. For his own part, neither had the right hon. gentleman's arguments been able to convince him, his rebukes to intimidate, or his admonitions to alarm him, but he should, with the consent of

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the House, go into the consideration of the treaty on the ensuing Monday.

Mr. *Martin* declared, that so far from being of opinion that a call of the House was necessary, he should have very little confidence in those members who would not attend their duty, when a measure of so much importance was to come under consideration, without the enforcement of a call. With respect to the Treaty, he was ready to debate it on Monday; and was free to acknowledge, that he saw no manner of objection to breaking through ancient prejudices, and entering into a commercial connexion with a liberal, civilized, and powerful neighbouring nation, with a view to promote a lasting harmony between the two countries, and render war less probable.

Mr. *Wilbraham* observed, that when Mr. Pitt declared that the Methuen Treaty was done away by the French Treaty, he had enforced an argument, of all others the most unanswerable, in favour of the amendment. Mr. Wilbraham asked, if the Portuguese would not have a right to put an immediate stop to the importation of our woollen manufactures as soon as the French Treaty received the sanction of Parliament? He lamented it, as a fatal blow to our commerce. He observed, that our manufacturers felt joy and triumph, when they heard that their manufactures would have a vent in France; but surely that joy and triumph would be converted into lamentation and sorrow, when they heard that the exportation of their goods to Portugal was stopped. He stated the great advantages of that trade in various points of view, and particularly in respect to the nursery for our seamen that it afforded, a great number of our vessels being employed in it, and above 5,000 seamen.

Mr. *Fox* said, that he had heard a rumour from a very respectable quarter, that Mr. Fawkener had left Lisbon with a final and complete refusal on the part of the Portuguese to enter into a new treaty; that Mr. Fawkener had received this answer a fortnight before he left Lisbon, and that ministers were in possession of it at least a month ago. He therefore thought it incumbent on the Chancellor of the Exchequer to state the situation of that treaty, if any was pending, fairly and candidly to the House. As to the Bill which he had the honour to bring in relative to the affairs of India, and which was always the resource of the right hon. gentleman when all others failed him; he begged leave to contradict the assertion of the principle of it being debated a week previous to the call of the House. The fact was, that the right hon. gentleman himself had chosen to debate the principle of the question on the motion for the Speaker's leaving the chair; but that did not preclude the principle of the Bill from being afterwards debated; consequently the arguments on that subject were nugatory.

Mr. *Burke* observed, that the treaty with France was not to be regarded as a simple commercial treaty; it had relation to other and higher considerations; it bore strongly upon the political interests of the country, and must necessarily affect them deeply. The Chancellor of the Exchequer, with that narrowness which led men of limited minds to look at great objects in a confined point of view, regarded the treaty, and wished it to be regarded as a mere commercial consideration. Such men, when in power, converted large cities into small villages, while those of a more noble and liberal way of thinking acted on a greater scale, and changed small villages into great cities. The right hon. gentleman had talked of the treaty as the affair of two little counting-houses, and not of two great countries. He seemed to consider it as a contention between the sign of the Fleur-de-Lis and the sign of the Red Lion, which house should obtain the best custom. Such paltry considerations were below his notice; but it was a serious thing to hear that Portugal was not to be held in view, in the discussion of the treaty. That was a novel and an alarming circumstance, and ought to be generally understood by the people, before their representatives gave a decisive vote on the treaty. The right hon. gentleman had ridiculed the idea of consulting their constituents. He begged to ask, had the manufacturers, of whose acquiescence the right hon. gentleman seemed so sure, been told, that the trade to Portugal was to be the price of the trade to France? Where were they apprized of this? In what hall was the meeting held? As far as a mere commercial view of the treaty with France went, perhaps his opinion was much the same with that of the manufacturers, as to its immediate effect; but he should never think of consulting them as to the policy of the measure, and its probable political effect on our ancient connexion. We were about to truckle, and to join our-

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selves with that power against which nature designed us as a balance. The Chancellor of the Exchequer had animadverted upon his right hon. friend, Mr. Fox. When animadversion was accompanied with wit, the satire was softened though severe: but when gross, miserable, and stupid abuse made up the whole of what was urged, the effect was lost, and the shaft recoiled on the person who threw it. The right hon. gentleman (said Mr. Burke) dwells with some degree of pleasantry on the short time he had the mortification to sit on this side the House, and in the plenitude of present power, triumphs in that pre-eminence which he now enjoys; but let me tell the right hon. gentleman, that the difference between this side of the House, and that, is as opposite as the equator to the pole. There is a great gulph divides us, and I am proud to say, that the ladder by which we aspire to climb the height of power, is supported by integrity, consistency, and sound policy. We have no merrymen to distribute our quack medicines; bishopricks to bestow after bishopricks, or embassies upon embassies. After animadverting with great force on the conduct of Administration, and drawing a ludicrous comparison between the coalition of lord North, and that of Mr. Eden, he pointed out in severe terms the apostacy of the latter.

Mr. *Wilberforce* confessed, that the right hon. gentleman who spoke last, had frequently in his happier days arrested his attention by the great abilities which so eminently distinguished him; but he was sorry, in the present instance, to find that his temper so far forsook him, as to lead him into a warmth of argument but ill suited to the important business now in agitation. The hon. gentlemen over the way contended for the little space of one week. They were either asking too little or too much. So short a period might possibly throw a radiance of light, which the powerful voice of the right hon. gentleman would nevertheless find it difficult to illumine into a flame. Mr. Wilberforce concluded by observing, that no petitions had been sent from the manufacturing towns, and that he did not see why the Treaty should not be concluded with all possible dispatch.

Mr. *Burke* answered, that the compliments which were so undeservedly bestowed on him he would forbear to return, as their scope and meaning were so strongly interwoven with censure and disapprobation. However, as he wished to stand well with the House, he would only appeal to their recollection, whether, in the numerous debates in which he had taken a part, he was ever known to have proceeded to personalities? The other side of the House might laugh if they thought proper; but he was too much accustomed to that species of insult, not to be able to bear it with patience; and, indeed, he addressed himself to the member who preceded him in the debate, and not to the chorus which surrounded him.

Mr. *Pitt* said, that he should not have troubled the House again, if he had not been called upon to answer a question which was pressed upon him, relative to our negociations with Portugal. As to the torrent of invective which had been so illiberally thrown out, he would not condescend to answer it; nor would he even now have deigned to advert to it, if he had not heard the flimsy justification on which the right hon. gentleman that moment excused himself. The manner in which it was delivered, there were few who wished to recollect; and the matter was the more unjustifiable, as whatever personality appeared before in the debate, did not by any means take its rise from him. In abuse and personality to contend with such an opponent, was very far beyond his powers, and much more beyond his wishes: there were some occasions, indeed, when he found himself warm in debate; and for the most natural of all reasons—having so many topics of discussion in which he was materially interested, and peculiarly agitated; but such intemperate, gross, abusive, and outrageous language as had that day been made use of, surpassed, beyond comparison, the most violent and injurious expression which ever escaped the lips even of that right hon. gentleman, and consequently of any other person who ever spoke within those walls. For his own part, he avoided, even in the most hasty moments, the introduction of personality; not so much from an apprehension of the consequences which might flow from it, and the no less so, when the vengeance was to be taken by the person to whom he alluded. Whenever he met a man whose conduct had produced an unfortunate change of character, and whose ill-temper and spleen were proportioned to the disappointments experienced and the odium which surrounded him, however such a man might

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be inclined by abuse and malevolence to reduce other characters to a level with the wretchedness of his own—though such a situation might lay claim to his compassion, that sentiment must naturally be blended with a portion of disgust.

A call of 'Order! order!' prevailed, and Mr. Fox requested an answer to his question, when

Mr. *Pitt* assured the House, that so far from a peremptory refusal having been given to our negociator at the Court of Portugal, a commission was now actually made out, giving the British ambassador powers and instructions to that purpose.

The question being put on the original motion, the House divided: Yeas 213; Noes 89. Lord G. Cavendish's amendment was consequently rejected. Sir Francis Basset then moved, That the House be called over on this day fortnight, which was rejected without a division.

Debate on Mr. Fox's Motion respecting the State of our Trade with Portugal.] Feb. 9. Mr. *Fox* observed, that it gave him pleasure to assure the House, that he should trespass but a short time upon their patience, as the documents for which he meant to move, went merely to the situation of our present, and the probable state of our future trade with Portugal, which though an object essentially necessary to be known in that House, previous to their coming to any decision upon the Commercial Treaty with France, yet, as far as it opened a field for argument, could only be considered in one of these two points of view, viz. Whether before we had entered into a Commercial Treaty with a new customer, we had taken care to secure our connexion with an old and valuable one; or in case of not having done so, whether having made a Treaty with France we were likely to keep our connexion with Portugal, our old customer, if the Treaty was to be commercially considered; our old ally, if the Treaty was to be considered politically; or solely trusted to putting ourselves exclusively into the hands of France, both as a customer, and—not an ally, for that she certainly could not be called, but as a new political friend.

These were the heads under which every argument upon the subject must range; and the better to make himself understood by the House, he would point out the three periods of time, at which the Treaty with Portugal could alone have been made, but at each of which periods undoubtedly there was a material difference in point of ease and advantage. The first of these periods was that of all others most desirable, because it must have been free from every imputation, either on the score of impolicy or suspicion of any kind whatever; the last of the three periods was certainly open to a proportion of suspicion; but he really thought, that though some suspicion might at first attach to it, in a very short time that might be done away: but there was between these two periods, an intermediate period, of a very doubtful and suspicious nature indeed, and that of all others was the most objectionable. The period most advantageous of the three, obviously was, that prior to the conclusion of a Treaty with France. Had a Treaty with Portugal been secured and settled at that moment, it would have manifested a fairness and a decency on our part to an old ally; and it would have exhibited a good example of the dignity of this country, by showing, that before we entered into new treaties, or sought for new friends, we took care to secure the continuance of our old connexions. At that time, therefore, in his mind, the Treaty with the court of Lisbon ought to have been adjusted, because he never could be brought to admit, that our commercial connexion with Portugal ought to be blended with, or make any part of the measure of a Commercial Treaty with France, though the converse of the proposition might be true, and indeed was so. The next best period for making a Treaty with the Court of Lisbon, was subsequent to the parliamentary sanction and final carrying into effect the Commercial Treaty with France, and after the reduction of Portugal wines, according to the reserve made in the 7th article of the French Treaty. That period, as he had before said, was certainly not so free from objection as the former one; but most objectionable was the intermediate period, namely, that between the signing the French Treaty, and the Parliament of Great Britain giving it their sanction, and engaging to carry it into execution. In order to illustrate this assertion, and explain more fully what he meant, Mr. Fox went into a good deal of argument to prove, that if Portugal should, through any perverseness, or ill-judging obstinacy, (which Heaven forbid should be the case!) refuse to continue the same con-

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nexion with us that had subsisted between the two countries under the Methuen Treaty ever since the year 1703, France would, in that case, derive a great additional advantage from us, for which we neither should have an equivalent, nor could claim one.

He knew that some doubts had arisen as to the right construction of the Methuen Treaty: as a minister, when in office, he had felt it to be his duty to negociate it one way, but he was aware that the Court of Lisbon had contended that Irish woollens were not comprehended under the Methuen Treaty. [Mr. Pitt said across the table, if the right hon. gentleman acted one way as a negociator when in office, he hoped he would not lend the weight of his authority the other way, now he was not in office]. Mr. Fox said, if the right hon. gentleman had heard him to the end of his sentence, he was sure he would not have thought what he meant to have expressed, to have been wrong, or injudicious, or ill-timed. What he was proceeding to say, was this, that the Court of Lisbon had contended that Irish woollens were not comprehended within the meaning of the Methuen Treaty; but that was an idle and a mistaken notion. The spirit of the Methuen Treaty undoubtedly went to Irish as well as British woollens; and to lay down any distinction between the two, was narrow and impolitic, and by no means consonant with that generous and liberal line of conduct that the Court of Lisbon and the Court of London should mutually take care to follow respecting the concerns of each other. His opinion was, and that an opinion founded on conviction, that Portugal was bound to listen to the complaints of our merchants, and that it was the duty of ministers to take care to enforce their just demands, so as to have the Methuen Treaty observed as to its spirit, rather than as to its mere letter. On our part we ought to act with equal liberality, and rather grant to Portugal more than she could claim by treaty than less. Upon that principle the two countries might continue connected and be useful friends to each other. If Portugal should, either by the influence of other powers, or the perverseness of her own ministers, break with us entirely, and an end should be put to the Methuen Treaty, we should lose a useful friend, and should undoubtedly feel the loss; but Portugal would soon find, that she had acted rashly and injudiciously, that she had injured herself most essentially by breaking her old connexion, and that no new commercial treaty she could enter into or conclude, could possibly prove in every point of view so serviceable and so advantageous to her, as her connexion with this country had proved. In that light, he had uniformly considered the Methuen Treaty and the connexion between Great Britain and Portugal; and so, he believed, every man who knew any thing of the commercial interests of the two countries must have considered them.

Mr. Fox next proceeded to show the disadvantages of putting the finishing hand to the French Treaty, by Parliament coming to a vote upon it before they knew what would be the state of our trade with Portugal. The principles of the French Treaty were reciprocity of advantage in respect to commerce; not that each country was to do the same thing exactly in respect to each commercial commodity, because that would be impossible; but where the duty was lowered upon any commodity in one country, an equivalent was to be granted by the other. But if the Treaty with France was sanctioned without knowing what was to be done with Portugal, we must remain in the dark, and might eventually give France an advantage for which we neither had the prospect of an equivalent, nor could set up any claim to one. Mr. Fox explained this, by putting the case, that Portugal should, either through her own perverseness, or the influence France was known to have over the Court of Lisbon, be so unwise as to refuse to come into any treaty wity Great Britain: in that case, we certainly should not lower the duty on Portugal wines, and then France would positively have a material advantage, in addition to the advantage already given by stipulation in the Treaty; for which additional advantage, we should not have a right to claim an equivalent. Thus France would be in the condition of a person purchasing an estate with a mine upon it, without having paid for the mine. Would not every man, in that case, blame the seller of the estate, for not having ascertained, whether there was a mine upon it or not, before he sold the estate? The case stood exactly in that manner between Great Britain and France: if Portugal broke with us, France would have all the benefit, without having stipulated to give any equivalent to this country. Mr. Fox put this very forcibly; and then mentioned, as another probable inconvenience, that if

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we should lower the duty on Spanish wines, France would have a right to call upon us to make the same reduction in the duties on the French wines, because we had stipulated that her wines should come in upon as low duties as were paid on the wines of any country, except the wines of Portugal. The validity of this argument would be seen by reading the sixth, the seventh, and eleventh articles of the French Treaty. Mr. Fox said, that if the object he aimed at, which he hoped he had made sufficiently clear to the right hon. gentleman, could be obtained by any other motion, he was ready to alter it, though he could not give up his argument, as he conceived nothing could be more evident than the grounds he had rested it upon. Mr. Fox explained why he had selected 1782 as the date from which the papers were to be made out. He said, he would not go so far back as 1758, when the merchants began to complain of the conduct of the Court of Portugal as to the non-observance of the Methuen Treaty; but fixed upon 1782, as more modern, at the same time that it was not so modern, as to be a period that interfered with negociations of a nature too recent to be touched upon. He concluded with moving, "That an humble Address be presented to his Majesty, humbly to desire, that he will be graciously pleased to give directions, that there be laid before this House, copies or extracts of the Instructions that have been given to his Majesty's ministers in Portugal since the first of May 1782, respecting the Complaints of the British merchants: As also the Answer or Answers of the Court of Portugal to the Representations which have been made in consequence of such Instructions, with the several dates of the said Instructions and Answers."

Sir *Grey Cooper* said, that no consideration should have induced him to second the motion, if it did not appear to him to stand on fair parliamentary ground, and if the right hon. gentleman had not, in his opinion, made a good case for this interposition, before the great and momentous question of the Commercial Treaty with France was brought into deliberation. In the preliminary and incidental conversation on the subject, which was now, for the first time, brought directly and regularly before the consideration of the House, the Chancellor of the Exchequer had informed them, that the negociation was now pending between Portugal and this kingdom, and that he therefore could not, consistently with his duty as a minister, consent to the communication of any papers respecting the actual state of that negociation. This did not appear to him to be a satisfactory reason for the refusal of such a communication under all the circumstances of this case. With great deference, he thought the House was competent to inquire and to ask for information, in the course and during the pendency of any treaty or negociation, if it should have fair ground to believe, either from common fame, or by the disclosure of collateral circumstances, that any engagement was about to be made derogatory to the honour, or injurious to the interests of the nation. He was aware that ministers had generally resisted such inquiries before the conclusion of the treaty or negociation, under pretence, that the production of the papers called for, and the agitation of the debates upon them, might give advantage to the parties with whom his Majesty was at the moment making the contract, and might perplex and embarrass the King's ministers, when, perhaps, they were on the point of concluding an advantageous treaty for the kingdom. This mode of reasoning might, perhaps, bear with some force against motions for papers respecting political treaties, or treaties of commerce, which required no alteration of duties to give them validity and effect; but not for refusing the communication of papers, materially relating to treaties of commerce, which were not valid and effectual until duties should have been altered, and laws should have been passed, or in the case of treaties of subsidy, where the contract was to have no energy or effectual existence, until that House could have voted and granted money for the subsidy to the foreign sovereign, or the pay of the troops. The right hon. gentleman's father had opposed, with all the power of reason and eloquence, the subsidy treaties in 1755. Would he have suffered any minister to have told him, without indignation, that the debate must be confined to the approbation or disapprobation of the treaties before the House? that it was not proper or regular to inquire whether the consent of the House to those treaties would not give umbrage to the other great allies of the nation, the Emperor and the king of Prussia, and bring on a general war, instead of preventing it? The signature and ratification of such treaties by the

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sovereign, gave them no effect. They were to be considered merely as propositions recommended by the Crown to Parliament. It was the act and deed of that House, in the alteration of the duties, or the grant of the money for the subsidy, which gave such treaties effect; and the House was therefore responsible to their constituents for the consequences which might fall on their country by their consent to the propositions. They in a great degree exonerated the minister. He took this to be a solid distinction, and applied it to the case before them. It appeared to him to be the duty of the House, to endeavour to make the best use of the short interval allowed them, in obtaining every material information, touching any matter necessarily to be connected with the French Treaty, and every possible light to direct their steps, when they were hurried with such rapidity, not only to deliberate, but to give their judgment on the important question of the French Treaty. Without entering into the principle, or the detail of the French Treaty, which would be premature and irregular at that time, it must be confessed, by all the members of the House, and of the whole community, who were deeply interested in it, that it was an experiment of the greatest magnitude and extent, and that it was an innovation which made a wide alteration in a system, which had long prevailed in this country, and which had taken so deep a root, that the sudden disturbance and change of it might shake and impair the foundation of the main pillars which supported the strength and power of the kingdom. The right hon. gentleman had said, in former debates, that the French Treaty might be considered and decided upon independently and separately from the present state of the negociation with Portugal. He owned, that it appeared to him, that the fate of the Methuen Treaty could never be totally separated from the votes in the committee on the French Treaty; and that if not directly, it must be virtually affected by those votes. If the right hon. gentleman would condescend to inform them, if he would give them papers to show that the power reserved in the close of the 7th article would be executed, in order to prevent the extinction of the Methuen Treaty, and that the grievances and complaints which our merchants had against the Court of Portugal for what they construed to be infractions of that Treaty, would be referred to commissaries to be settled in the same manner as the grievances of the merchants stated during the course of the Treaty of Seville in 1729, he, for one, should be satisfied. The Treaties with Spain were confirmed as being very advantageous to the political and commercial interests of Great Britain; and the complaints and grievances were referred to the commissaries to be settled, and reparation made to the merchants. It was not the intention of this motion to put the minister under any disadvantage in the representation, and if they were founded in justice, in the demand of redress of those grievances. But let the great condition of the Treaty be preserved inviolable, and then let no time be lost in the examination of the complaints. The attention of the whole world was directed towards the Methuen Treaty. It was upon a motion laid before the House in 1713, under the title of "A Treaty with Portugal for taking off the prohibition of the woollen manufactures of this kingdom." It was the shortest, it was the best Treaty we ever made. The Treaty had reference to the treaty made by Cromwell in 1654, by which the nation obtained great and extensive advantages of trade in the supply of Portugal, as well as the Brazils with its manufactures. In 1678 there was passed an Act for prohibiting for three years, and to the end of the next session of parliament, the importation of all French commodities whatsoever. This prohibition continued to 1685, as no Parliament had been held from the dissolution in 1681; and at the end of the session, (at the accession of James 2,) it expired, and was not to be revived. In 1685 it appeared that woollen cloths were actually prohibited in Portugal; and Sir Grey admitted it was the year before the prohibition of the French trade expired: this prohibition in Portugal lasted for 19 years, and during that interval down to the Methuen Treaty, Portugal supplied her home market and her colonies with cloth of her own manufacture. This evidence was laid before the House in 1713, when the merchants and manufacturers were heard in the committee on the Bill in support of their petitions against the 8th and 9th Articles of the Treaty of Utrecht. The prohibition in 1684 was said to be a project of their great and patriot minister Conde d'Eveceira, to establish manufactures in his own country; and it was also said, that he was assisted in carrying his plan into execution, by the opening of the French trade

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in 1685. The fact, however, was, that the prohibition of the woollens of England continued for 19 years; and he begged the House to recollect, that what had happened might happen again. The House had, within these few days, been favoured with the accounts of the quantity and value of that great volume of commerce, which they might venture to pronounce to be the most beneficial and important of any which they now possessed. They were permitted to see the magnitude of the stake which they risked, and the sum of the advantages which were in peril and jeopardy, in the present state of things. The balance was now stated to be 500,000*l.* and more in our favour; it certainly had been more favourable; it seemed rising and advancing. Since the Treaty, this nation had received between forty and fifty millions on the balance of trade with that nation. It was of the most essential importance to the landed interest, and the general industry of the nation, that this treaty should be preserved by the performance of the condition on our part. No advantages to be received from France could compensate the loss of such a trade. On Monday next, if the committee came to resolutions to reduce the duties on French wines to 45*l.* per ton, and did not at the same time reduce the duty on Portugal wines one third part lower, it would be a dangerous tendency to the extinction of this great Treaty. If an act of parliament passed, without authorizing the usual reduction, he feared the prohibition of woollens in Portugal would follow as an inevitable consequence.

Mr. *Beaufoy* said:—If I did not misunderstand the right hon. gentleman who opened this debate, his motion proceeded upon an idea that it is impossible for the Legislature to determine how far the Commercial Treaty with Paris is or is not consistent with the essential interests of the kingdom, till they have the means of ascertaining what will be the probable effects of that Treaty upon the conduct of the Court of Portugal. He thinks it impossible even to conjecture how far the Treaty will prove beneficial or otherwise, unless we are informed, in the first place, what price is to be paid by England to France, as the condition of the advantages she expects to receive; and that information, he imagines, cannot be obtained until we know whether the sacrifice of the commercial intercourse that subsists between this country and Portugal is or is not to be the consequence of the bargain.—Now, if I shall be able to prove, that the merits of the Treaty with France are entirely independent of our commercial connexion with Portugal; if I shall be able to prove, that whether Portugal shall renew or renounce the stipulations of the Methuen Treaty, an established commerce with France will in either case be advantageous to Britain, then it will follow, upon his own ground, that his motion is founded upon no necessity; that it has no political advantage in view; and that being made pending a negociation with Portugal, it ought, by the established customs of the House, to be instantly rejected.—Before I proceed to state any reasons for thinking that the propriety of the Commercial Treaty with France is independent of the measures that Portugal may think proper to pursue, it will be necessary to advert to the nature of the French Treaty. That Treaty the right hon. gentleman has considered as being equally new to the commercial principles, and to the experience of the kingdom; and imagines that the first question that will arise is—Shall the established maxims by which this country has risen to commercial greatness be made the sacrifice of a rash and inconsiderate experiment? Now, the fact undoubtedly is, that a commerce with France, which he considers as so completely new, has existed for many years, and does exist at this very hour; I say not by compact or in law, but in practice and in fact. The first question therefore that arises is not, Shall we establish a new and untried commerce with France, but—Shall the commerce which already exists between the two kingdoms, give employment to the vessels of the smuggler, or to those of the fair and respectable merchant? Shall the trade be carried on inconveniently and circuitously, by the way of Austrian Flanders and of Dunkirk; or shall it be carried on, with every commercial advantage, directly to the ports of France? Shall the manufactures of this country be objects of confiscation or of protection to the French laws? Shall the burthens to which the trade is at this time subjected, continue to exist as the price of insurance and as premiums to the smuggler; or shall they be paid as duties to government, and form an important part of the revenues of the state? Shall the productions of British industry find a market in Paris alone, from which, in consequence of the extent of the city,

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and of its not being a walled town, they cannot be excluded; or shall they find an authorized admission into every port of the French kingdom? Shall the market for British manufactures be the capital alone, or shall it be the whole country of France?—Such being the questions that arise upon the late Commercial Treaty, let us next consider in what respects these questions can be affected by the conduct of the Court of Portugal. Portugal, it is evident, will either renew the stipulations of the Methuen Treaty, or will decline the commerce with England which that Treaty establishes: should she renew the conditions of the Treaty, then it will follow, that as Britain has reserved the right, and unquestionably possesses the means, of fulfilling the conditions of the compact, no possible injury can have arisen from the agreement lately established with France. That Britain does possess the means of discharging such engagements as the renewal of the Methuen Treaty would impose, will be evident to every man who considers that France is not the natural rival of Portugal in her trading connexion with this country. Perfectly well I know, that, by regulations and restraints, Britain might give to the wines of France a decided advantage in her markets; but equally sure I am, that, if things are left to their natural course, the wines of France and the wines of Portugal will equally find a sufficient market in the consumption of this country. Thus it appears, that if Portugal shall be willing to renew her ancient engagements with England, no possible injury can arise to her interest from our legalizing the trade with France: but were it even admitted, that the trade with France essentially interferes with the commerce of Portugal; yet, even in that case, it is evident that the injury she sustains is not the consequence of the legality, but of the existence of the trade; for, if the trade between France and England actually exists, its receiving the sanction of the law, and being established by compact, can add but little to the grievance. Hence it necessarily follows, that if Portugal shall refuse to renew her commercial engagements with Britain, the late Treaty with France, however it may be made the pretext, can never be considered as the reason of her conduct: for as Portugal can have received no injury, can have sustained no wrong, it necessarily follows, that she can have no just reason to complain. Shall, then, the mere pretext of a foreign Court be considered by the Legislature of Britain as a reason for their departure from that line of conduct which their interest obviously prescribes? Shall Britain abandon her views, in consequence not of the rights, not of the equitable claims, not of the fair and reasonable requests of an ally, but in consequence of extravagant proposals, in consequence of unreasonable demands, in consequence of perverse and unfriendly requisitions? To such attempts to impose upon her reason, what ought to be her reply? Undoubtedly she will answer, that the best maxim for the conduct of a nation, the maxim which best suits her own dignity, and the friendship she owes to her allies, is that of justice to herself, and of justice to the rest of the world. But, like the right hon. gentleman, I have too much confidence in the common sense of mankind, too firm a reliance on their regard for their obvious interests, to suppose that Portugal can adopt such inverted maxims of policy as those upon which she must evidently act if she renounces her commercial connexion with Britain. Is it possible that she can relinquish her trade to the only country that furnishes a market for her wines, and that is able to send her in return the various articles she wants? A country that supplies her with necessaries in exchange for articles of merely luxurious use; a country, whose manufactures, in defiance of restraint, have found a market in every part of the world; a country whose woollens have so decidedly the advantage over those of every other, that when the American agent, a few years since, was expressly ordered to purchase woollens in France for the use of the continental army, the performance of the condition was found so impossible, that he was under the necessity of having recourse to Holland for the English cloths with which the shops of that country are always full.—But if, after all, it were possible to suppose that Portugal would subject her trade with this country to the severest restraints, and that for a time the diminution of our exports to that kingdom might follow, what better mode of balancing the evil could be found, than that of fostering the growth and encouraging the increase of our trade in a different and much better direction? I trust the arguments I have already urged are sufficient to show that the motion is founded upon no public necessity, supported by no

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public consideration, and applicable to no one beneficial use.

Mr. *Pitt* said, that the right hon. baronet who seconded the motion had manifested so much official and political knowledge, and was so well acquainted with the proceedings of Parliament on questions like the present, that he had anticipated him in his principal argument against the motion; and he should almost be satisfied barely to repeat what the right hon. baronet had said, as a sufficient justification for giving his negative to the question before the House. All that the right hon. baronet had said relative to the danger and impropriety of publishing the different documents; all that he had said of the constant usage of that House, to decline any interference with such subjects; were conclusive and substantial reasons to induce him to oppose, to the utmost of his power, any attempt to bring forward an account of the communication between our Court and that of Lisbon, on subjects connected with any treaty now depending, or likely to be set on foot between the two countries. But the right hon. baronet had made a most notable distinction, by which he hoped to reconcile the difficulties which his new arguments threw in his way; this was the distinction between a political and a commercial treaty. He had stated, that to a commercial treaty, which was to stipulate for some alteration of duties, it was necessary to obtain the consent of Parliament; whereas, to the conclusion of a treaty purely political, the Crown itself was of its own authority fully competent. From this consideration he had concluded that although in the latter cases Parliament had no right to interfere, they having no power whatsoever to prevent the ratification of such treaties, yet, as in the latter case the Treaty was to undergo the judgment and consideration of Parliament, before it could be concluded, Parliament had, therefore, during the pendency of such treaty, a right to demand such information as it might think necessary towards enabling them to judge upon its merits; or, in other words, the right hon. baronet had argued, that because the consent of Parliament was absolutely necessary to the ratification of the Treaty, it was for that reason right and proper that Parliament should have access to all possible information while the Treaty was yet in agitation: whereas there was nothing more clear, than that the power which Parliament enjoyed of revising and approving or rejecting the Treaty, was a circumstance that rendered any superintendence on their part in the forming of the Treaty absolutely unnecessary—and the examination of papers relative to the negociation between the two Courts, which might ultimately terminate in a treaty, and the debating upon them, or coming to any resolutions concerning them, was evidently such an interference as amounted to the taking an active part in the formation of the Treaty.—With respect to the right hon. gentleman who made the motion, he should look upon him as having met a full refutation, generally, as to the object of the motion itself, by the arguments of the right hon. baronet, were it not that the ingenuity with which he had delivered his sentiments certainly entitled him to a particular answer. In no instance was this ingenuity so eminently conspicuous as in the colour which he had given to those palpable fallacies and glaring contradictions of which his speech had been wholly compounded. He should enumerate a few of these extraordinary instances of the right hon. gentleman's logical talents, by which he was enabled to draw from the same set of premises two different and contradictory conclusions. The right hon. gentleman had divided his argument into different heads; the first had related to the period which had been chosen for the conclusion of the several treaties. This the right hon. gentleman had considered in three ways; observing that there were three different periods, as referring to the French Treaty, in which that of Portugal might have been concluded: the first, and that which he had stated to be in his opinion the best, was before any treaty whatever with France had been signed. Whether the right hon. gentleman was correct in his idea, that this was the most proper period, was a question which could now only be considered as implying a censure or acquittal of Government, because the period was already passed—for the treaty had been signed. The period which the right hon. gentleman had stated as the next best, though still, he said in some degree objectionable, was after the final conclusion of the treaty, and its ratification by Parliament: but between these two periods there was an intermediate period, which was, as the right hon. gentleman had represented, the most improper of all; the period between the signature of the Treaty and its being finally carried into effect by act of parliament. But, to what end did

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the right hon. gentlemen apply those observations? He had made use of them as a part of an argument, and which was to persuade the House to fix a period for the forming a treaty with Portugal, while the French Treaty was in the very situation which was of all others, in his own opinion, the most favourable to such a negociation —and to bring the Treaty with Portugal to a conclusion before they proceeded to confirm the present Treaty with France, laying themselves thereby under a necessity of coming to the French discussion when the treaty with Portugal was in that state, which the right hon. gentleman had himself laboured to prove was not the state most favourable to the consideration of another treaty. Thus he would, out of two different periods, which remained for the consideration of the Treaty with Portugal, choose the worst; and for the conclusion of the French Treaty he would choose that which he had described as only the second best. The second part of the right hon. gentleman's argument tended to show, that we were going to conclude a treaty with France, by which our advantages were to be exactly defined and circumscribed by the terms of the Treaty, and of course could receive no addition or improvement; whereas the advantages to be derived by France, might hereafter meet with a very considerable increase, by our declining to make use of the reserve provided for in the seventh article of the Treaty, relating to our trade with Portugal; by which means France having a full equivalent for every advantage we might enjoy from the Treaty, had over and above the chance of a farther advantage, for which we could demand no equivalent in our turn. To this he should answer, that in discussing the French Treaty we were only to take into consideration the provisions actually contained in that Treaty, and the advantages respectively provided by it in favour of each country. Any accidental benefits accruing to France hereafter by new arrangements, or by the occurrence of circumstances which did not already exist, were totally out of the question, in considering those regulations and stipulations that were actually to take place. The idea of stipulating for additional concessions on the part of France, in order to countervail such eventual benefits as might arise to that country from any future changes which we might make in our commercial intercourse with other nations, was perfectly incompatible with all systems of practical politics, and, if carried into effect, would render every sort and species of negociation tedious, difficult, and complicated beyond measure; for he would take upon him to say, that should Great Britain at any time prohibit the trade of any nation, with which she always traded, such prohibition would unquestionably, to a certain degree, operate in favour of every other nation on earth with which we should continue to trade in the articles so prohibited. And were we to suspend every treaty of commerce, until we should be able to ascertain the possible effects of every fresh arrangement we might hereafter think proper to make with other countries, it would be impossible ever to hope for the conclusion of any treaty whatsoever. Besides, it was not to be supposed that we should adopt such measures as would throw any very considerable advantage into the scale of France, without a fresh stipulation for some adequate equivalent for ourselves.—But he hoped there would be no occasion for any such new arrangement with France; as he relied upon the good faith, the ancient friendship, and the good sense of the Court of Portugal, that she would make satisfaction for those violations of the Methuen Treaty, of which this country had so long and so justly complained. Those infractions were, as the right hon. gentleman had stated them, the alterations of the duties in the new book of rates, and her refusal to admit the woollen manufactures of Ireland on the English duties, which he looked upon the Court of Lisbon as bound to do by the Methuen Treaty, and which surely the footing upon which they stood with this country, amply entitled our Government to expect as a concession, even though they were not entitled to demand it as a right.—The right hon. gentleman had not the least occasion to feel himself so extremely uneasy under the apprehension that the conclusion of the French Treaty would necessarily put an end to the Methuen Treaty; for he would state to the House how that might be avoided—which was, by coming to a resolution in the committee, that the duty on French wines should be reduced to the present duty paid by Portugal wine, and that such reduction should take place on a certain specified day; and then in the mean time coming to a vote for the proper reduction of the duty on Portugal wine, to take place on or before

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the same day.—Thus, in no part of the right hon. gentleman's argument was he well founded, but had built the whole upon mis-statement and obvious fallacies. He had blended the French and Portugal Treaty, and taken it for granted that the one was naturally dependent upon the other; and under colour of this misapprehension, he had complained of the respective periods that had been adopted for considering and concluding upon them. And, besides, as far as it applied to the date of the French negociation, it went to overturn that sound maxim of policy, always to reserve in our own hands a resource, in case of disagreement with those with whom we negociate. In the present instance, we had acted by that maxim, inasmuch as before we had opened our negociations for the remedy of our complaints against Portugal, we had shewn that Court, that we could do without her, by having formed such a connexion with France, as would make it eligible for us to transfer to that country, should she reject them, those advantages which she at present enjoyed. The right hon. gentleman had farther attempted to mislead the House, by endeavouring to confound and implicate the advantages already secured to France by the Treaty, with those that we might hereafter have it in our power to bestow upon her, by forbearing to put in force the reserve made in that treaty in favour of Portugal.—With respect to the difficulty which the right hon. gentleman had suggested concerning the Spanish wines, he was glad to have an opportunity of clearing it up, which he could do from the terms of the the Treaty themselves. The right hon. gentleman had expressed his apprehension that the Treaty bound this country to the maintaining a duty on Spanish wine at all future times, adequate to that which France, under the provisions of the Treaty, was to pay, notwithstanding the reduction of the duty on Portugal wines:—but this was by no means the case, for if we should hereafter, in such an event think proper to reduce the duty on Spanish wine to the same proportion with the reduced duty on Portugal wine, as it now bore to the present duty, we were amply at liberty to do so.

The motion was negatived without a division.

Petition from the General Chamber of Manufacturers for postponing the Consideration of the Treaty with France.] Feb. 12. Mr. Alderman Newnham presented a Petition from the several manufacturers whose names are thereunto subscribed, from their General Chamber of Manufacturers of Great Britain; setting forth,

"That the petitioners, duly impressed with the serious and awful importance of the Treaty of Commerce now pending with France, beg leave to represent that the said Treaty, involving a vast complication of detail, affecting a variety of the greatest interests, and comprehending a prodigious change in the commercial system of this country, is an object of the most momentous consideration; and that the petitioners, after the most careful investigation which such sources of information as they have been able to consult hitherto have afforded them, are not capable of forming any certain judgment of a Treaty fraught with such magnitude, novelty, and variety of matter, and cannot but be seriously alarmed at hearing, that the House has determined to come to a decisive vote upon the said Treaty this day; and that the petitioners, remembering with gratitude the favour and indulgence which they experienced from the House on a former occasion, and the providential effects which were then universally allowed to have resulted from delay, humbly conceive that they have at present still stronger reasons to request time for the purposes of inquiry and deliberation, before the House shall come to any resolution which may be decisive upon this great measure: and therefore imploring the House to postpone the adoption of any such resolution, for the important reasons above stated, and for such time as to the House shall seem meet."

On the motion, that the Petition do lie on the table,

Mr. *Pitt* said, that in his opinion the Petition was not so pregnant with interesting matter as to induce the House to waver, for a single moment, in their determination to investigate the nature and the merits of the Treaty. Why had this Petition been deferred so long? The Chamber had enjoyed ample time for going fully into the discussion of the subject, and for procuring all the lights which they might require. However respectable the signatures to the petition might appear, he could not conceive that parliamentary proceedings ought to stop in their course, because certain individuals had not hitherto made up their minds

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concerning a long-agitated subject. If the subscribing parties to the Petition had not been able to form any decided opinion, during the space of four months, it was natural to ask what additional portion of time they could in reason desire, for the purpose of working up their sentiments to a conclusive point; but, even if the moment of their determination were almost at hand, the House might still go on with the discussion; in the progress of which it would be found whether the ideas of manufacturers, who doubtless merited every respectful attention, ought to operate against the full establishment of the Treaty. Their representations must, indeed, carry the most powerful weight, could they at all prove that it militated against the interests of the trading part of the community.

Mr. *Fox* said, he felt it difficult to conceive how it was possible for any petition more unexceptionably to claim the serious attention of the House than the present, signed as it was by so numerous and respectable a body of their mercantile fellow-subjects. They were men of the first importance, and what they required was at once temperate and just. They had heard that the vote of this night was in some degree to conclude the discussion; now though this idea, thrown out very artfully, was a doctrine to which he could not subscribe, it was their duty to pay respect to the application of men so intelligent and so deeply interested. A more respectable name than that of Mr. Walker did not exist. In addition to this eminent authority on the cotton branch, the Petition was signed by several names of high credit in the glass branch, as well as others greatly affected by the Treaty. He needed not to point out the striking affinity between this and the first petition presented from the same body against the Irish propositions. Upon that occasion, as at present, were found the particularly reputable names of a Walker in the cotton, a Holmes in the glass, and a Milner in the cotton manufactory. There, as in this instance, the Chamber prayed for time; and the consequence was salvation not only to the manufacturers of this country, but to the commercial opulence of the empire. Such subscribing petitioners were to be considered as the deputies and representatives of manufacturing interests, and, under that description, entitled to every attention which it was in the power of the House to show them.

Mr. *Pitt* observed, that at least four months had elapsed subsequently to the publication of the Treaty. If, therefore, the Chamber had received an alarm, there was full time for information; but on the contrary, they had been completely silent until this day. It was impossible, therefore, that they could harbour the idea of postponing the discussion. The Chamber of Commerce would still have the opportunity of procuring the information they required, and of collecting the sense of the country; and surely their doubts would come more properly into discussion in the committee expected shortly to sit upon the consideration of the Treaty.

Mr. *Sheridan* observed, that a material difference must arise, could it be taken for granted that the manufacturers would have time for inquiry, and that this night's discussion was not to be concluded with resolutions committing the House in any degree to the acceptation of the Treaty. For his own part he objected to the notion which had gone abroad, that the House was to be involved by this night's vote. He contended, on the contrary, that the House would not be committed to the acceptation of the Treaty until they had passed the last vote on the last Bill, which was necessary to the carrying into execution the Treaty. He begged at the same time to call the attention of the House to one material point, in which he believed this important subject had not as yet been considered. The Irish propositions had been mentioned. If this Treaty should pass, would it not become absolutely necessary that those propositions, reprobated and rejected as they were, must be revived, or at least that a system of intercourse of some kind must be established between this and the sister kingdom; for it was totally impossible that the present system should continue if the Treaty with France took place. He wished therefore to learn explicitly from the right hon. gentleman, whether, in case the Treaty of France was carried into effect, it was his intention to revive the Irish propositions? The right hon. gentleman contended that the Treaty had been between four and five months before the public. He denied this fact. It had been but fourteen days; for until the Convention appeared, the Treaty could not be said to be before them.

The Petition was ordered to lie on the table.

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Debate in the Commons on the Treaty of Commerce with France.] The order of the day being then read, for the House to resolve itself into a committee of the whole House, to consider of so much of his Majesty's Speech to both Houses, upon the 23d of January last, as relates to the Treaty of Navigation and Commerce between his Majesty and the Most Christian King, the House resolved itself into the said committee; Mr. Beaufoy in the chair.

Mr. *Pitt* then rose:—He trusted that when the House considered the magnitude of the subject, they would not only forgive him for trespassing upon their patience with an extended investigation, but would encourage him in his attempts to throw all necessary lights upon its nature, and its possible effects. Convinced that he could not enter into details without employing much time, he should, on this account, avoid needlessly prolonging the hours of debate, by the introduction of any extraneous matter whatsoever. If the Treaty should be found to comprehend principles hostile to the received notions and doctrines of British commerce, and that thereby a general spirit of objection and discontent had spread abroad over the country, he was assured that it would little avail him to stand up in that committee, and argue for the acceptance of a negociation, which was generally offensive. The committee would not be seduced, by any thing which he might be able to advance, from the exercise of their clear and independent judgments; and certainly they would not be bound in any degree to the confirmation of this treaty, unless, after the most deliberate and solemn discussion, they should perceive it supported by the most rational principles, and by the most incontrovertible policy; and so finding it, declare their sense of it, by adopting the means necessary for carrying it into effect.

On this occasion, he should not hesitate again earnestly to contend, that the treaty, in its commercial aspect, had been between four and five months before the public, and it was on that ground that he had confidence in going into the committee, and commencing its discussion. For if, after remaining between four and five months in the hands of every manufacturer and merchant in the kingdom, after being freely discussed in various publications, it should turn out that no one complaint had been heard; that no great manufacturing body of men had taken the alarm; and that nothing whatever had happened to prevent the discussion, save the petition presented upon that day, praying for time, from a few manufacturers collected in a certain chamber of commerce, he should certainly think himself justified in calling the attention of the committee to the discussion. If even that very Chamber who thus presented the petition, did not at the same time state any reasons against the treaty, but leaned itself simply on the vague and unsatisfactory ground, that after four or five months they had not had time, he was sensible that gentlemen would not think it a substantial ground for delay; after the expiration of such a period of time, it appeared that all upon which they had determined was to entertain doubts, and of course, avoid bringing forward an opinion upon the subject. But another transaction had been mentioned and coupled with this, he must say, in a very singular manner—he meant the Irish propositions. Did the hon. gentleman (Mr. Sheridan) mean to insinuate that there was any analogy between this treaty and those propositions? Surely he did not intend to conclude from that experience, that the manufacturers were a body of men slow to apprehend their own danger, or to communicate their apprehensions to Parliament; or did the hon. gentleman wish to keep the resemblance in another way? Those propositions, after being canvassed, discussed, and debated, were at length, on the most solemn deliberation, and he thought with the most perfect wisdom, approved by the Parliament of Great Britain, as a set of resolutions salutary and political for the basis of an intercourse. But those propositions, so evidently opposed by the manufacturers here, had in the end been rejected by another kingdom as injurious and inimical to her interests. Was this the part of the precedent which the hon. gentleman meant to select? But, in truth, there was no similarity. The manufacturers, who were in general not a little watchful of their interests, and he rejoiced that they were vigilant, had taken no alarm. The woollen trade, so properly dear to this country, had manifested no species of apprehension. The manufacturers of cambrics, of glass, the distillery, and other members and branches of our domestic trade, though, in fact, particularly affected by the treaty, had made no complaint, much less had they received any notices from the manufacturers, from the hard-

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ware, the pottery, and other branches, of any objection.

If after four or five months nothing like an objection had been heard; and if at the same time gentlemen were sensible, that in many parts of the country, many descriptions of men were now eagerly looking forward for the completion of the business, forming exclusive speculations on the foot of it, and all waiting in readiness and anxiety to avail themselves of the benefits, and with themselves greatly to benefit their country, he begged of gentlemen not to think that they rashly entered into the consideration of the subject. Under these circumstances, therefore, he felt himself justified in declaring, that a reference to the case of the Irish propositions, made more for his arguments, and against his opponents, than was perhaps suspected. While the propositions were agitating, and they were not surely more injurious than gentlemen would represent this treaty to be, the manufacturers of the kingdom came forward to Parliament; and at a time when they experienced every attention and indulgence from the House, exhibited themselves the most incontrovertible, and indeed, laudable proof, that, while they fancied themselves endangered, or saw their interests at stake, they possessed the most unremitting vigilance in watching over their concerns, and at least a sufficient degree of firmness in maintaining their objections. There was not a body which thought itself concerned but instantly took alarm, and joined in the general remonstrances. Was it not fair then to conclude, that if any such apprehensions at present existed, instead of supineness and negligence, they would apply to Parliament again with redoubled earnestness; but, so far were the public from entertaining any dislike, or even doubts, concerning the merits of this treaty, that from the very best information, he could assert, in the presence of many of the members from great commercial towns, that in most parts of the country they looked with sanguine wishes for the speedy ratification of it. Great and various were the objects of this treaty; but the resolutions which he should have the honour to propose that evening, would lie in a narrow compass, and be easily embraced. It was not his intention to draw the committee to any general resolution which should involve the measures necessary to be taken in future, nor need gentlemen be alarmed by the groundless idea of being committed by one question to all the important details necessary to the full establishment of the system. Several observations had been made respecting the navigation laws and maritime regulations, upon which, as they did not come within the scope of his motion to the committee, and more properly belonged to the prerogative and the executive government, he would forbear offering any remarks. He meant only to submit to them certain leading resolutions, tending merely to the commercial establishment, and they were founded on the 6th and 11th articles of the Treaty. The result of the Resolutions was precisely this:

1. That the committee should agree, that all articles not enumerated and specified in the tariff should be importable into this country, on terms as favourable as those of the most countenanced nation, excepting always the power of preferring Portugal, under the provisions of the Methuen Treaty.

2. That if any future treaty should be made with any other foreign power, in any articles either mentioned or not mentioned in the present Treaty, France shall be put on the same, or on as favourable terms as that power. And

3. That all the articles enumerated and specified in the tariff shall be admitted into this country on the duties, and with the stipulations stated in the sixth article.

He thus confined himself to the commercial part of the Treaty; nor was even all which belonged to that part, comprehended in the scope of these Resolutions. It would be necessary for the committee to take into their consideration the relative state of the two kingdoms. On the first blush of the matter, he believed he might venture to assert it, as a fact generally admitted, that France had the advantage in the gift of soil and climate, and in the amount of her natural produce; that, on the contrary, Great Britain was, on her part, as confessedly superior in her manufactures and artificial productions. Undoubtedly, in point of natural produce, France had greatly the advantage in this Treaty. Her wines, brandies, oils, and vinegars, particularly the two former articles, were matters of such important value in her produce, as greatly and completely to destroy all idea of reciprocity as to natural produce—we perhaps having nothing of that kind to put in competition, but simply the article of beer. But, on the contrary, was it not a fact as demon-

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strably clear, that Britain, in its turn, possessed some manufactures exclusively her own, and that in others she had so completely the advantage of her neighbour as to put competition at defiance? This then was the relative condition, and this the precise ground, on which it was imagined that a valuable correspondence and connexion between the two might be established. Having each its own and distinct staple—having each that which the other wanted; and not clashing in the great and leading lines of their respective riches, they were like two great traders in different branches, they might enter into a traffick which would prove mutually beneficial to them. Granting that a large quantity of their natural produce would be brought into this country, would any man say, that we should not send more cottons by the direct course now settled, than by the circuitous passages formerly used—more of our woollens, than while restricted in their importation to particular ports, and burthened under heavy duties? Would not more of our earthen ware, and other articles, which, under all the disadvantages that they formerly suffered, still, from their intrinsic superiority, force their way regularly into France, now be sent thither? and would not the aggregate of our manufactures be greatly and eminently benefited in going to this market loaded only with duties from twelve to ten, and in one instance with only five per cent.? If the advantages in this respect were not so palpable and apparent as to strike and satisfy every mind interested in the business, would not the House have had very different petitions on their table than that presented this day? The fact was apparent. The article (sadlery) charged the most highly in the tariff, gave no sort of alarm. The traders in this article, though charged with a duty of fifteen per cent. knew their superiority so well, that they cheerfully embraced the condition, and conceived that the liberty would be highly advantageous to them. A market of so many millions of people—a market so near and prompt—a market of expeditious and certain return—of necessary and extensive consumption, thus added to the manufactures and commerce of Britain, was an object which we ought to look up to with eager and satisfied ambition. To procure this, we certainly ought not to scruple to give liberal conditions. We ought not to hesitate, because this, which must be so greatly advantageous to us, must also have its benefit for them. It was a great boon procured on easy terms, and as such we ought to view it. It was not merely a consoling, but an exhilarating speculation to the mind of an Englishman, that, after the empire had been engaged in a competition the most arduous and imminent of any that ever threatened a nation—after struggling for its existence, still it maintained its rank and efficacy so firmly, that France, finding they could not shake her, now opened its arms, and offered a beneficial connexion with her on easy, liberal, and advantageous terms.

We had agreed by this treaty to take from France, on small duties, the luxuries of her soil, which, however, the refinements of ourselves had converted into necessaries. The wines of France were already so much in the possession of our markets, that, with all the high duties paid by us, they found their way to our tables. Was it then a serious injury to admit these luxuries on easier terms? The admission of them would not supplant the wines of Portugal, nor of Spain, but would supplant only an useless and pernicious manufacture in this country. He stated the enormous increase of the import of French wines lately, and instanced the months of July and August, the two most unlikely months in the year, to show the increase of this trade. The committee would not then perceive any great evil in admitting this article on easy terms. The next was brandy, and here it would be inquired whether the diminution of duty was an eligible measure. He believed they would also agree with him on this article, when they viewed it with regard to smuggling. The reduction of the duties would have a material effect on the contraband in this article: it was certain that the legal importation bore no proportion to the quantity clandestinely imported; for the legal importation of brandy was no more than 600,000 gallons, and the supposed amount of the smuggled, at the most rational and best-founded estimate, was between three and four hundred thousand gallons. Seeing then that this article had taken such complete possession of the state of the nation, it might be right to procure to the State a greater advantage from the article than heretofore, and to crush the contraband by legalizing the market.

The oil and vinegar of France were comparatively small objects, but, like the former, they were luxuries which had taken the shape of necessaries, and which

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we could suffer nothing from accepting on easy terms. These were the natural produce of France to be admitted under this treaty. Their next inquiry should be to see if France had any manufactures peculiar to herself, or in which she so greatly excelled as to give us alarm on account of the Treaty, viewing it in that aspect. Cambric was the first which stared him in the face, but which, when he looked around him, and observed the general countenance of the committee, he could hardly think it necessary to detain them a moment upon. The fact was, it was an article in which our competition with France had ceased, and there was no injury in granting an easy importation to that which we would have at any rate. In no other article was there any thing very formidable in the rivalry of France. Glass would not be imported to any amount. In particular kinds of lace, indeed, they might have the advantage, but none which they would not enjoy independent of the treaty: and the clamours about millinery were vague and unmeaning, when, in addition to all these benefits, we included the richness of the country with which we were to trade: with its superior population of twenty millions to eight, and of course a proportionate consumption, together with its vicinity to us, and the advantages of quick and regular returns, who could hesitate for a moment to applaud the system, and look forward with ardour and impatience to its speedy ratification? The possession of so extensive and safe a market must improve our commerce, while the duties transferred from the hands of smugglers to their proper channel would benefit our revenue—the two sources of British opulence and British power.

Viewing the relative circumstances of the two countries then in this way, he saw no objection to the principle of the exchange of their respective commodities. He saw no objection to this, because he perceived and felt that our superiority in the tariff was manifest. The excellence of our manufactures was unrivalled, and in the operation must give the balance to England. But it was said, that the manufacturers dreaded the continuance of this superiority. They were alarmed at the idea of a competition with Ireland, and consequently they must be more under apprehensions at the idea of a rivalry with France. He always did think, and he must still continue to think, that the opinions of the manufacturers on this point were erroneous. They raised the clamour in respect to Ireland chiefly, he imagined, because they perceived no certain and positive advantage by the intercourse to counterbalance this precarious and uncertain evil. In this instance, their consent to the treaty did not proceed from a blind acquiescence, for they never would be blind to their interest; but now that they saw so certain and so valuable an advantage to be reaped, the benefits being no longer doubtful, they were willing to hazard the probability of the injury.

Some gentlemen thought proper to contend, that no beneficial treaty could be formed between this country and France, because no such treaty had ever been formed, and because, on the contrary, commercial intercourses with her had always been injurious to England. This reasoning was completely fallacious, though it sounded largely. For, in the first place, we had not, during a long series of years, experienced any commercial connexion with France, and could not therefore form a rational estimate of its merits; and secondly, though it might be true that a commercial intercourse founded on the treaty of Utrecht would have been injurious, it did not follow that this would prove the same; for at that time the manufactures, in which we now excelled, had hardly existence, but were on the side of France instead of being against her. The tariff did not then, as now, comprehend all the articles in which we comparatively excelled; but in addition to the produce of France, which at all periods must be the same, she had the balance of manufactures also in her favour. At that period also the prejudices of our manufacturers against France were in their rage, and corresponded with the party violence of the day in the reprobation of the measure; but so far was the Parliament from entertaining the opinion of no treaty being otherwise than detrimental, which could be made with France, that they went up with an address to her Majesty, praying her to renew commercial negociations with the Court of France. It was not correctly stated, neither, that we had invariably considered it as our policy to resist all connexion with France. She had been more jealous of us than we of her—Prohibitions began on the part of France, and we only retaliated in our own defence. These parts of his subject he felt it difficult to drop, without again adverting to the effect of this treaty on our

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revenue, which would almost exceed credibility, though it would cause an average reduction of 50*l.* per cent. in every article in our book of rates; on French wines the reduction would be 10,000*l.* per annum; on Portugal wines, 170,000*l.* should the Methuen Treaty be continued; and, on brandy, a reduction of 20,000*l.* The surrender of revenue for great commercial purposes was a policy by no means unknown in the history of Great Britain; but here we enjoyed the extraordinary advantage of having it returned to us in a three-fold rate, by extending and legalizing the importation of the articles. When it was considered that the increase must exceed the concession which we made, it would no longer be ar argument that we cannot afford this reduction. Increase by means of reduction, he was obliged to confess, appeared once a paradox; but experience had now convinced us that it was more than practicable.

The simple question for the committee to consider, was, whether, if the situation of the two countries was changed in its relative aspect—if it was true, that at the treaty of Utrecht we had but little to send to France, and that we had now much to send them—that our manufactures were so confessedly superior as to dread no competition, and greatly to counterbalance the natural produce of France, we ought not to enter into the Treaty; or whether there was some preposterous and inscrutable, as well as fixed and eternal something between the two countries which must prevent them from ever forming any connexion, or cherishing any species of amity? Having decided on this point, the next business of the committee was to see how far this Treaty would affect their commercial treaties with other Powers. This naturally led him to Portugal; and he must positively affirm, that there was nothing which prevented them from complying fully with the conditions of the Methuen Treaty, if the British Legislature should find it right, by the conduct of Portugal, to maintain the full force of that Treaty. By enlarging their market for wine, they neither infringed on the markets of Portugal nor of Spain. It was not pretended even that the Treaty could affect their connexion with any other Powers.

He contended, that it was not more necessary to view the effects of the Treaty in its commercial operation, than as it might have an influence on the revenue. There would undoubtedly be a very considerable reduction of duties. It was a question, however, whether this reduction would be attended with a proportionate loss to the revenue. On the subject of wines, it was certain that this reduction would not so operate; for if the Methuen Treaty was to be preserved, and he certainly thought that nothing but the conduct of Portugal could make us harbour the idea of putting an end to it, there must be a defalcation from the subsisting duties on wine to the amount of 160 or 170,000*l.* a year. On brandy there must also be a loss, though a very small one, considering the probable increase of the legal importation—but there might be a diminution of the revenue to the amount of 20,000*l.* Taking this evil at the worst, a surrender of revenue for great commercial purposes was not contradictory to sound policy, nor to established practice. It was happy for the nation that this defalcation would make no difference, because it did not interfere with the plan of applying the surplus of the revenue to the payment of the debt.

Previous to an examination of the Treaty in its political aspect, he begged leave to trespass upon the patience of the House, whilst he adverted to the Report made to the general Chamber of Manufacturers—a report which would now form a part of his speech; but, however, he should be sorry and ashamed were the committee to mistake it as being actually a part of his speech. The House would, therefore, please to recollect, that this chamber of manufacturers had asked, "What laws must be repealed to make room for the French Treaty?" They needed not to suspend their opinions simply on this ground; they might have left the task of discovering these laws to Parliament, unless they meant to take from them the trouble of legislation. The enumeration which they had made was singular. They had found out that the aliens duty must be repealed. In confirmation of this, they had thought proper to observe, that besides the laws restraining exportation, there are many others which, in favour of our own manufactures, prohibit the importation of foreign goods, as the 4th Edw. 4th, ch. 1, by which no cloths wrought beyond sea shall be brought into England, and set to sale. That the 3d. Edw. 4th, ch. 3d and 4th: The 1st Rich. 3d, ch. 12. The 7th Eliz. ch. 7: The 13th and 14th Ch. 2d, chap. 13, contain a variety of prohibitions on the importation of a great

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number of articles in the woollen, iron, copper, and glass manufactures: every one of which laws must necessarily be repealed. And that it has also been proved by a law, 1st of Rich. 3d, ch. 9th, and 32d Hen. 8th, ch. 15, "That no alien shall sell by retail nor take any lease of a house or shop to trade in," which must by this Treaty also be repealed, as the permission to sell by retail is not (as was in the Treaty of Utrecht) excepted. And they add, that it may be proper to remark, that any relaxation of the laws, to prevent the clandestine landing of goods, will have a worse effect upon our manufacturers, than even a direct importation upon certain duties; and that by the free approach allowed to French vessels upon the coast, and the time given by the Treaty to make entries, and to correct them when made, an alteration of the custom-house laws, (made as well for the protection of fair trade, as the collection of the revenue) must take place, from which they apprehend great mischiefs may ensue.

Mr. Pitt here remarked, that he believed a well-founded opinion prevailed in the learned profession, that the statutes of Rich. 3, and Hen. 8, imposing that odious duty, were in fact no longer in existence. If this were not so, he was sure at least that the gentlemen on the other side of the House, whose liberal principles he would always acknowledge, would not become advocates for the continuance of those odious penal statutes. In this enumeration also they talked of a vast number of articles which would be clandestinely imported and exported—of the encouragement to smuggling by the re-approach to our shores although the re-approach was pointedly confined to ships driven by stress of weather—and the danger of alteration of entries—and that by taking off the old prohibitions, their wool, their fullers' earth, nay, their tools, utensils, and secrets, would be transmitted to the rival. He professed he could not divine the part of the Treaty where this committee of manufacturers had discovered these dangers. He conceived that they were empowered to preserve all the prohibitions which they might think it wise to continue. He knew not of any possibility of sending the wool, the fullers' earth, or the tools of the manufacturers out of the kingdom. He went through the whole report of the committee, commenting on each passage, and opposing the ideas of the whole. That a set of manufacturers should neglect to consider the application of the Treaty to themselves, while they wandered into the paths of legislation and government, did not look like that apprehension for their real interests which their terrors betrayed at the time of the Irish propositions. They indeed expressed their fears, should the tools and manufacturers of this country be exported to France; but upon that subject they may be quite at their ease, for there was not a word in the Treaty to favour such a construction.

Considering the Treaty in its political view, he should not hesitate to contend against the too-frequently advanced doctrine, that France was, and must be, the unalterable enemy of Britain. His mind revolted from this position, as monstrous and impossible. To suppose that any nation could be unalterably the enemy of another, was weak and childish. It had neither its foundation in the experience of nations, nor in the history of man. It was a libel on the constitution of political societies, and supposed the existence of diabolical malice in the original frame of man. But these absurd tenets were taken up and propagated; nay, it was carried farther; it was said, that by this Treaty, the British nation was about blindly to throw itself into the arms of this constant and uniform foe. Men reasoned as if this Treaty was not only to extinguish all jealousy from our bosoms, but also completely to annihilate our means of defence; as if by the Treaty we gave up so much of our army, so much of our marine; as if our commerce was to be abridged, our navigation to be lessened, our colonies to be cut off or to be rendered defenceless, and as if all the functions of the state were to be sunk in apathy. What ground was there for this train of reasoning? Did the Treaty suppose that the interval of peace between the two countries would be so totally unemployed by us as to disable us from meeting France in the moment of war with our accustomed strength? Did it not much rather, by opening new sources of wealth, speak this forcible language—that the interval of peace, as it would enrich the nation, would also prove the means of enabling her to combat her enemy with more effect when the day of hostility should come? It did more than this; by promoting habits of friendly intercourse, and of mutual benefit, while it invigorated the resources of Britain, it made it less likely that she should have occasion to call forth those resources. It

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certainly had at least the happy tendency to make the two nations enter into more intimate communion with one another, to enter into the same views even of taste and manners; and while they were mutually benefited by the connexion, and endeared to one another by the result of the common benefits, it gave a better chance for the preservation of harmony between them, while, so far from weakening, it strengthened their sinews for war. That we should not be taken unprepared for war, was a matter totally distinct from treaty. It depended in no degree on that circumstance, but simply and totally on the watchfulness and ability of the administration for the time being. He had heard of the invariable character of the French nation, and of the French cabinet; her restless ambition and her incessant enmity and designs against Great Britain; and he noticed the particular instance of her interference in our late disputes, and of the result of her attack at that time. That France had, in that instant of our distress, interfered to crush us, was a truth over which he did not desire to throw even the slightest veil. Having premised that the provisions of the Treaty would neither delude us into security, nor accomplish our reduction; that, on the contrary, it would strengthen our hands, and, whilst it did not diminish our means, would throw the prospect, and the necessity of war, at a very great distance, friendly assurances, he added, were not always to be relied on; but, although he thought France the aggressor in most of our former wars, yet her assurances and frankness during the present negociation, were such as, in his opinion, might be confided in. What might be the projects which wild ambition might one day dictate, was beyond his penetration; but, at present, the Court of France was governed by maxims too prudent and political, not to consult its own safety and happiness beyond the ministerial aims of impracticable conquest. Oppressed as this nation was during the last war, by the most formidable combination for its destruction, yet had France very little to boast at the end of the contest, which should induce her again to enter deliberately into hostilities against this country. In spite of our misfortunes, our resistance must be admired, and in our defeats we gave proofs of our greatness and almost inexhaustible resources; which, perhaps, success would never show us—

Dur's ut ilex tonsa bipennibus,
Nigræ feraci frondis in Algido;
Per damna, per cædes, ab ipso
Ducit opes animumque ferro.

Indeed, whilst he recollected the whole of that dreadful controversy, he could deduce arguments from it to reconcile the present conduct of France with more equitable and more candid principles of policy than gentlemen seemed willing to attribute to our rival. When France perceived that, in that dreadful contest, when with the enormous combination of power against us it might be truly said that we were struggling for our existence, we not only saved our honour, but manifested the solid, and, he might also be tempted to say, the inexhaustible resources of the land; reflecting that, though she had gained her object in dismembering our empire, she had done it at an expense which had sunk herself in extreme embarrassment; and reflecting also, that such a combination of hostile power against us, without a single friend in Europe on our side, can never be imagined again to exist; may I not (exclaimed Mr. Pitt) be led to cherish the idea, that, seeing the durable and steady character of our strength, and the inefficacy as well as the ruin of hostility, France would eagerly wish to try the benefits of an amicable connexion with us? It was a singular line of argument which he had heard, and which he saw was also propagated out of doors, that the Treaty would prove objectionable, if it should be found that, though advantageous to ourselves, it would be equally so to them. It was ridiculous to imagine that the French would consent to yield advantages without an idea of return: the Treaty would be of benefit to them; but he did not hesitate to pronounce his firm opinion, even in the eyes of France, and pending the business, that though advantageous to her, it would be more so to us. The proof of this assertion was short and indubitable. She gained for her wines and other produce a great and opulent market; we did the same, and to a much greater degree. She procured a market of eight millions of people, we a market of twenty-four millions. France gained this market for her produce, which employed in preparation but few hands, gave little encouragement to its navigation, and produced but little to the state. We gained this market for our manufactures, which employed many hundreds of thousands, and which, in

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collecting the materials from every corner of the world, advanced our maritime strength, and which, in all its combinations, and in every article and stage of its progress, contributed largely to the state. France could not gain the accession of 100,000*l.* to her revenue by the Treaty; but England must necessarily gain a million. This could easily be demonstrated. —The high price of labour in England arose chiefly from the excise, and three-fifths of the price of labour were said to come into the Exchequer. The produce of France, on the contrary, was low in the staple, and less productive to the state in the process. Even the reduced duties were so proportionably high, that France could not send to us 500,000*l.* of brandies but we must gain cent. per cent. by the article. In this view, then, though France might gain, we must be, comparatively, so much more benefited, that we ought not to scruple to give her the advantages; and surely ought not to fear that this very disproportionate gain could be injurious to us in case of a future contest. It was in the nature and essence of an agreement between a manufacturing country and a country blessed with peculiar productions, that the advantages must terminate in favour of the former: but it was particularly disposed and fitted for both the connexions. Thus France was, by the peculiarly dispensation of Providence, gifted, perhaps, more than any other country upon earth, with what made life desirable, in point of soil, climate, and natural productions. It had the most fertile vineyards, and the richest harvests; the greatest luxuries of man were produced in it with little cost, and with moderate labour. Britain was not thus blest by nature; but, on the contrary, it possessed, through the happy freedom of its constitution, and the equal security of its laws, an energy in its enterprise, and a stability in its exertions, which had gradually raised it to a state of commercial grandeur; and not being so bountifully gifted by Heaven, it had recourse to labour and art, by which it had acquired the ability of supplying its neighbour with all the necessary embellishments of life in exchange for her natural luxuries. Thus standing with regard to each other, a friendly connexion seemed to be pointed out between them, instead of the state of unalterable enmity, which was falsely said to be their true political feeling towards one another.

In conclusion, he remarked, that, with respect to political relation, this Treaty at least, if it afforded us no benefits, brought us no disadvantages. It quieted no well-founded jealousy; it slackened no necessary exertion; it retarded no provident supply; but simply tended, while it increased our ability for war, to postpone the period of its approach. But on this day he had only to draw the attention of the House to objects merely commercial; and he must again say, that he by no means wished to bind them by any resolution this night, to any general approbation of the measure. He should sit down after voting his first resolution; yet he begged to be understood that he meant to move the others which he had mentioned. Mr. Pitt concluded with moving his first Resolution: viz. "That all articles of the growth, produce, or manufacture of the European dominions of the French King, which are not specified in the sixth Article of the Treaty of Navigation and Commerce between his Britannic Majesty and the Most Christian King, signed at Versailles the 26th of September 1786, shall be imported into this kingdom on payment of duties as low as any which shall be payable on the importation of the like articles from any other European nation."

Mr. *Fox* rose immediately as the Chancellor of the Exchequer sat down. He began by declaring, that he clearly saw that the right hon. gentleman had considered a great and complicated subject on narrow and confined ground. When he was in office, he had begun the only system on which commerce between the two countries could have been carried on, without disgrace and embarrassment to Great Britain. To the greatest part of what had fallen from the right hon. gentleman with so much eloquence and ability, he was prepared to give a direct and immediate negative; and he at the same time scrupled not to assert, that no one argument the right hon. gentleman had urged in favour of the Treaty carried conviction to his mind, or altered his opinion of it in the smallest degree. The right hon. gentleman had done what he expected, because it was what every person must have done, who undertook the defence of a commercial treaty with France —he had talked a great deal of the assurances given by the Court of Versailles, of her amicable intentions towards Great Britain; and on these assurances of friendship had he rested his confidence, that France was sincere in her professions, and

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that she really wished well to this country. In that confidence he never could join; nor could he ever be brought to believe that France was sincere when she professed to be the friend of Great Britain. The right hon. gentleman had said, "sure no man would go so far as to assert, that France must be actuated by an unalterable enmity towards us, and that it absolutely was impossible that the two countries could ever be brought to act towards each other with amity and friendship." He undoubtedly, Mr. Fox said, would not go the length of asserting that France was, and must remain the unalterable enemy of Great Britain, and that there was not a possibility for any circumstances to occur, under which France might not secretly feel a wish to act amicably with respect to this kingdom. It was possible; but it was scarcely probable. That she however felt in that manner at present, he not only doubted but disbelieved. France was the natural political enemy of Great Britain. What made her so?—not the memory of Cressy and of Agincourt; the victories of those fields had nothing to do with the circumstance. It was the overweening pride and boundless ambition of France; her invariable and ardent desire to hold the sway of Europe. If the right hon. gentleman thought the friendly assurances of France were infallibe proofs of her sincerity, let him but turn over the correspondence to be found in the Secretary of State's office that related to what had passed between the British ambassador and the French ministers at the time that lord Stormont had been our ambassador, and immediately before the delivery of the French rescript, previous to their breaking with us, and joining America against this country, and he would there see assurances of sincere regard, and professions of firm friendship as warm as could be made. How far those assurances had been verified, and how far those professions had been fulfilled, the House and the country but too well knew!

Mr. Fox said, that one reason to distrust France was, the amiable character of the French King—a monarch celebrated for his love of justice, for his desire to serve his country, and his wish to aggrandize her name. That monarch sat on the throne when France last went to war with us, and the minister of that day was M. Maurepas; a man of known talents, but a man of that time of life not likely to be led away by improbable speculations on visionary projects more flattering than solid. Assurances of friendship, therefore, on the part of the Court of Versailles were not to be relied on, especially at this moment, when France was so powerful, and had so little reason to part with any thing really meant for the good of this country.

Mr. Fox contended that France was the natural foe of Great Britain, and that she wished by entering into a commercial treaty with us to tie our hands, and prevent us from engaging in any alliances with other Powers. He answered that part of Mr. Pitt's speech in which he had said, that at one time France and Great Britain were friends, and had carried on a commercial intercourse with each other. The reason he said was, this country had at that time another natural enemy, and that was Spain. He elucidated this, by referring to the history of Europe, and stated that from the reign of Henry 6, after those wars were over, that this country had derived so much glory from, France and Great Britain did for a long time continue upon an amicable footing with each other.

The right hon. gentleman, he observed, had dwelt a good deal on the benefit that individuals would reap from the Treaty being carried into execution. That was, Mr. Fox said, one good reason with him for disliking it. Connexions of such great political importance ought not to rest on the advantage that would accrue from them to interested individuals, but on the good effect they were likely to produce to the public and to the state. In the reign of Charles the 2nd, we had a connexion with France; why?—for the good of an individual, because of the corruption of the crowned head. Oliver Cromwell it was true, notwithstanding his wisdom and the vigour of his measures, was also in connexion with France; the only reason that could be assigned, was probably for the sake of the safety of his own personal situation, having to dread that France might lend her aid to the family of the abdicated prince, and assist in restoring them to their legal rights: that consideration might operate and induce him to prefer his own interest and the preservation of his power to the glory of the country, over which he, in almost every other respect, ruled with so much credit to himself. Charles the 2nd, from the moment he came to the throne, began

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to put schemes in execution for the ruin of the religion of his people, and almost every thing that it was his duty to maintain and uphold.

In King William's time, a more glorious conduct was pursued, and also in the subsequent reign, until the people were led away with false notions of their interests, and were not only persuaded, that the victories and the triumphs of the wars they had carried on so successfully against France, had been purchased at too dear a price of blood and of treasure to this country; but that those who had planned those wars in the cabinet, and conducted them in the field, deserved execration and punishment. At that era it was, that the Tories got the government into their hands, and under the influence of idle rumours of the Church being in danger, and the most incredible reports, prevailed on the Tory Parliament to pass censures on men, whose characters were afterwards proved not to have deserved the smallest imputation of blame. Even the Duke of Marlborough himself, who had fought the battles of his country with so much glory to the British name and character, and so much signal honour to himself, did not escape without slur, and without abuse. At that era it was, that the Treaty of Utrecht was thought of and negociated; a treaty that deservedly met with the execration of all ranks of people! Even that Parliament—a Parliament that had proved so servile, that it had disgraced itself in a variety of instances, would not consent to swallow the infamous Treaty of Utrecht, but rejected it. They thereby proved, that though they were a Tory, they were not a French parliament; but although they did reject the 8th and 9th articles of the Treaty of Utrecht, they were so adulatory to the then Tory Ministry, that if they could not bring themselves to approve their works, they nevertheless praised their persons, and sent up an Address to the Queen, flattering to the Administration, though it condemned their Treaty.

Mr. Fox drew a parallel between their conduct, and the treatment the right hon. gentleman had himself experienced ever since he had been in power. The right hon. gentleman had talked of the Irish Propositions, and, as it were, invited their being mentioned. But would not the fate of those propositions sufficiently prove, that although the measure failed, yet the right hon. gentleman, high in favour with his Sovereign, and with the people, lost not an atom of the confidence of either? The House might recollect, that when the Irish Propositions came ultimately to be voted in that House, many gentlemen of great character and regard in the country, expressly declared, that the measure was too complex for them to comprehend, but that they were ready to vote for it, from the confidence they had in the right hon. gentleman's integrity, and in his having declared that it was a right measure.

The right hon. gentleman, Mr. Fox observed, had laid great stress on the assertion, that no petitions had been presented against the Treaty; the same degree of stress exactly had he laid on the same circumstance, in the case of the Irish propositions, and yet they all recollected how the boast of the right hon. gentleman had turned out. But in the present case, there was a petition from the Chamber of Commerce, signed by some of the most respectable names to be found among the manufacturers of the country. Mr. Fox justified Messrs. Walker, and the house of Mills and Haywood, for their conduct; and said, if such men declared they did not rightly understand the Treaty, it behoved that committee to proceed cautiously, and not to lose all sight of their being a deliberative assembly. He asked, did the right hon. gentleman himself, or any other gentleman, take upon him to assert, that he understood the interests of the cotton manufacture better than Mr. Walker, or the interests of the woollen manufacture better than the house of Mills and Haywood? He replied to the several observations that had been made by Mr. Pitt on the Report from the Chamber of Commerce, and defended every part of that Report, declaring the questions put in the Report were pertinent and pointed, notwithstanding the right hon. gentleman had thought proper to treat them with so much levity, and to declare that he should be very much ashamed if any gentleman thought what he was about to read, was really a part of his speech. With respect to the doubts entertained by the Chamber of Commerce, as to the construction of the fifth Article; he was very free to say, that those doubts appeared to him to be ill-founded, and to agree with the right hon. gentleman, that if there were any laws existing, by which aliens and foreigners were debarred from exercising a retail

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trade in this country, they were a disgrace to the statute book, and ought to be done away.

After dwelling for some time upon this matter, and justifying the report, and the question proposed in it for inquiry, Mr. Fox returned to his first argument, that France was not to be trusted, and that she insidiously meant to draw this country into her scale of the balance of power, which could not but make it preponderate. He observed, that the right hon. gentleman had talked of the facility, the ease, and accommodation manifested by France all through the negociation; a circumstance at which, Mr. Fox said, he was not surprised, because upon a perusal of the Treaty it was evident, that France had her own great end in view, and not the good of Great Britain. In order to explain this, Mr. Fox remarked, that, notwithstanding the levity of French manners, notwithstanding the constitutional mutability of that people, yet, to the astonishment of all the world, during all their changes of administration, they had for more than a century kept to one regular and constant idea, that of overweening pride and national aggrandizement. Anxious to grasp at more than a due influence over the Powers of Europe, France had endeavoured by different means to attain her object. In the reign of Louis the 14th, she had openly avowed her purpose, and endeavoured to effect it; but finding that arrogant conduct offensive to all the other Powers of Europe, and that it created against her an host of foes, she had lately changed her means, and determined to do that by the more laudable mode of commercial connexion, that she saw she would not be suffered to accomplish by force of arms. Hence her facility to treat with this country, because she knew she would have an opportunity of taking an advantage; an advantage which she had not permitted to escape her. When the family compact was entered into, Mr. Fox said, it gave great offence to the European Powers; and when we negociated the peace of Paris in 1763, being at that time the successful combatants, and granting relief from the fatigue and expense of a disastrous war, to an almost exhausted foe, we got France then, humbled as she was, tacitly to abjure the family compact, as would be seen by referring to the first article of that Treaty. In our last treaty of peace, the Treaty signed at Paris in 1783, the French adhered to their abjuration; but as we did not deem that sufficiently satisfactory, the duke of Manchester was sent over, who obtained a declaration which expressly answered the purpose. Notwithstanding these precautions, France had been artful enough to revive the family compact in the present commercial Treaty, and had thereby obtained a recognition of it on the part of this country. Mr. Fox, to prove this position, read the 25th article of the family compact, and the different articles from the treaties of 1763 and of 1783, and was extremely pointed on the circumstance, which he said was an admirable proof of the sincerity of the assurances of France, and her professions of friendship towards Great Britain, and accounted very sufficiently for the ease and facility which she had manifested in the course of the negociation.

He enlarged upon the argument that this country ought not, by any means, in point of policy to connect herself too closely with France. Her true situation was that, he said, of a great maritime power looked up to by the other Powers of Europe, as that to which the distressed should fly for assistance, whenever France unjustly attacked them with a view to the attainment of her favourite object. Two things it behoved a wise ministry of this country to aim at, with respect to France: the one was, to divert her attention from her marine, and turn it to land connexions and fortifications; the other, to procure an alliance for Great Britain with some maritime power that could assist her whenever France thought it a fit moment to attack her. Both of these ends, if they could be answered, were extremely desirable; but if both could not, it was the duty of ministers to endeavour to gain one of them. Mr. Fox declared, he had lately heard, and with much true joy, that the probability of our once more recovering our situation with Holland, was not quite so hopeless as it had been. He was sincerely glad of it, for the present Treaty did not appear to him likely to invite other Powers to enter into alliance with us. He went over the whole of the arguments used on Friday last, relative to the Methuen Treaty with Portugal, throwing new lights upon it, and declaring that our connexion with the Court of Lisbon had been made a sacrifice and peace-offering to France, and had been clearly given as the price of the Treaty. He said, that the French, in the much-

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boasted reserve contained in the seventh article of the Commercial Treaty, had completely outwitted us. He explained this, by reminding the committee, that the reserve, as to Portugal, was the reserve of a right actually existing when the Treaty was negociated; whereas the reserve on the part of France, viz. that of an article in the Family Compact, was not admitted by us to have an existence.

After very fully going over the ground of the policy of the Treaty, he touched upon the commercial and the revenue divisions, contending that the hon. gentleman had been mistaken in almost every one of his arguments respecting both those heads. Much, he said, would it become the House seriously to contemplate the effect which this Treaty might have on the revenues of this country. What were the advantages that ministry could possibly expect from it? With regard to the prevention of smuggling, he did not conceive how the arguments used by the right hon. gentleman would apply. He had said, with respect to the brandies, that what were formerly smuggled into this country would now come under the legal duty, and thus would the revenue receive all the advantages of which it was formerly defrauded. But how did this fact really stand? The duties on brandies made their importation to the merchant 7*s.* 6*d.* per gallon. This was 400 per cent. Would the right hon. gentleman therefore pretend to say, that when the duties on brandies were 400 per cent. on the first cost, that they would not be now smuggled in as great a proportion as they were formerly? They certainly would; for where there was such a temptation, there would smuggling always exist. But, to prevent this smuggling of brandy, the right hon. gentleman had declared that he had a plan to propose to effectuate it entirely. What was this plan? Did he mean to reduce the duties to 100 per cent? Would he lower the duties to 3*s.* 4*d.* per gallon? And if he did, what assurance could he give that they would not then smuggle brandies into this country? But if he reduced the duties on brandies, the duties on rum must be reduced in proportion, otherwise the consumption of our colonial produce in the West Indies would be materially diminished. He was therefore assured that he could not, with any consistency of policy or expediency, lower the duties beneath their present standard. If he did, he would risk the diminution of the revenue in one instance, and the diminution of our West India produce in the other. Therefore he could not conceive in what particular smuggling would be diminished with regard to the exportation of brandies, under the stipulations of the present Treaty.

As to the commercial part of the Treaty, the first object that claimed his attention was the woollen manufactory. It had been argued, that we had opened to ourselves a market, containing twenty-four millions of people, while France had only obtained a market from us of eight millions. But with respect to the number of persons in a market, he did not estimate the advantages to be derived on such a scale of computation. The advantages were to be estimated from the consumption of the national produce. The raw material, if grown in the country and then manufactured, was certainly the estimate of the profit of one nation with another in a commercial intercourse. Now, how stood the situation of this country with regard to our woollen manufactures? As far as the woollen articles we might export to France, by virtue of this Treaty, were composed of English wool, we should clearly have benefit. But as we used at least 350,000*l.* worth of Spanish wool in our manufactories of woollen cloths, we clearly lost this advantage of the raw material. And this was not all; for this 350,000*l.* when manufactured into cloth, was estimated, by those most conversant in the trade, to amount to no less a sum than 700,000*l.*, which would be clearly so much to our disadvantage. And what yet more increased our loss was, that Spain might give France an opportunity of importing their wool under the sanction of the Treaty, which restored to both France and Spain the privileges of the Family Compact. By this France would be able to manufacture this article, and afterwards serve us with the commodity which we before made ourselves. And as it was a species of cloth which our wool would not make, we should be obliged to purchase it from France, under the disadvantage of their having the labour, and we the loss of the artificers, and they the emolument, and we the loss of the manufacture.

Thus, having shown in what manner the advantages of reciprocity were to be estimated in this Treaty, he proceeded to several other articles. Among these was the importation of brandies into this coun-

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try. He had before manifested, that in no possible manner could this Treaty diminish the smuggling of this article into the country. And now he meant to evince, that the revenue could not possibly be benefitted under the idea of a greater quantity of brandy being imported into the country: 600,000 gallons were the estimate of the brandies imported here. But of this quantity, only 160,000 gallons was the quantity imported annually from France. It was, therefore, evident that the rest must be chiefly imported from Spain, or some other countries on that part of the Continent. Consequently, lowering the duties of what were imported from France could not increase the revenue; for, as what was imported from thence was evidently so disproportionate to what we imported from Spain and other countries, no increase of consumption in French brandies could possibly be expected. Unless the constitutions of the people could be altered, he believed a greater quantity could not be consumed than what was at present. He, therefore, could not conceive any advantages of revenue, or indeed commerce, to be derived from lowering the duties on this article. He then proceeded to the cotton manufactory: this, he said, was chiefly supported by the working of a raw material, of which no less a quantity than seventeen millions of pounds of cotton-wool was used. But of this quantity half was imported from France, Portugal, and the Brazils. Was not this an alarming circumstance to a manufactory of such consequence as the cotton, fustian, and velvet, was to this country? By this Treaty, France herself might withhold two millions of the quantity we used, and keep it for her own rising manufactures. And if we were deprived of this raw material, one of our greatest manufactures would be destroyed, or at least transplanted to France. What was there in the Treaty to compensate for such an essential loss to the commerce of the kingdom? He knew of none. Much had been said with regard to its reciprocity; but with all his examination of it, he could not find one article in which any trace of that reciprocity existed. Proceeding thus through several articles of our commerce, he adverted to our situation with Portugal with respect to the present Treaty. As to the idea of our renewing or preserving the Methuen Treaty, he had not the least expectation. We had not preserved to ourselves the only chance which could give us any pretence to ask it with confidence. Portugal knew that we had formed a Treaty which precluded us from every possibility of making any advantage of any proposal we might offer, and she might think proper to reject. She would, therefore, not be inclined to give us a benefit for a bonus we had it not in our power to bestow; for notwithstanding we had a reserve to reduce her wines one third below those of France; yet as we had no means of giving, or rather selling, this advantage to any other, should she refuse it, she could have no reason to accept a proposition tending so much to her disadvantage. What gave a pretence for a treaty was, to have it in your power to offer to one, what, if rejected, you might, with advantage, offer to another. But this you could not expect in the present instance of Portugal wines, and therefore he did not perceive on what species of confidence we could expect the Methuen Treaty to be continued. What was to compensate for the advantage which we lost? 150,000*l.* worth of salt fish we annually sent to that country. Where could we find a market for this invaluable article of our commerce? If any where, we should expect to have it in France. For as we lost a benefit in consequence of giving them an advantage, we certainly had a right to expect from them a compensation. But could we expect this? No! They had a fishery of their own. They, therefore, would not take ours. Where then would the right hon. gentleman find the reciprocity in this particular? None could be found. It was consequently evident, that here a most material sacrifice was offered to the pretences of France. We lost not only this sale of our produce, as it might be called, but we lost this opportunity of reaping those advantages from our fisheries, which rendered them the nurseries of our seamen.

The right hon. gentleman had made some extraordinary observations concerning the importation of wines into this country, in consequence of the Treaty. He did not conceive that any particular advantage could ever be derived from this concession—if it might be so called. Wines were certainly a luxury, and a most agreeable species of luxury, with which we could not dispense. But surely, their importation on one third less duty than before, would not prove the least advantageous to the country from any pretended equivalent that might be offered us.

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With respect to the equivalent which we were to have for the reduction of the duties on French wines so as to admit them more freely into our ports, what article had we the privilege of exporting into France? He knew of none. It appeared to him, therefore, an advantage given to France without the least sign of an equivalent. We were admitting French wines into our ports to the exclusion of those of Portugal, reducing our duties on both, and forfeiting all those advantages which we formerly enjoyed by the Methuen Treaty. Such was the policy and principle of the leading feature of this Treaty.

The right hon. gentleman had used arguments not less extraordinary in favour of establishing peace between this country and France. He had asked in his zeal and sanguine wishes for the event, were not the two countries nearly situated, were they not nearly connected in their mutual intercourse? were they not pursuing the same means of increasing their prosperity? and was not this the only means of uniting a people in the bonds of peace, amity, and prosperity? Such arguments might be used with regard to Spain and Portugal. Portugal might say, Am I not nearly adjoining to Spain? Do we not speak almost the same language? Are we not of the same religion? Are we not similar in in manners? And should I not rather seek alliance and protection from a neighbour so near me, and so competent to afford protection from insulting and invading neighbours? These questions were certainly as applicable to Spain and Portugal, as they were to France and England. And yet the answer which would naturally be given to Portugal as well as to Great Britain, was, that vicinity of situation, instead of being the means to connect, was what should excite our fear and jealousy. Portugal being so near to such a superior power as Spain, was certainly in danger from her ambition. It was, therefore, that she rather sought foreign connexions and alliances, than union with a country to which she might be sacrificed, had she not such a friend as Great Britain to call to her assistance. This was the reason why Portugal could not enter into any treaty with Spain with safety, any more than Great Britain could possibly enter into a commercial treaty with France. Both transactions were equally dangerous to us and Portugal; for our relative situations were such, as to render this policy extremely hazardous, not only to the prosperity, but to the existence of each country as a nation. As to the stipulation of reducing Portugal wines one third below the French wines, while the 11th article of the Treaty subsisted, he could not conceive that this could have the least effect in preserving the Methuen Treaty unbroken. For by the eleventh article it was agreed, that all the commodities imported from either nation into the other should be on terms of the most favoured nations, Portugal excepted. Thus, if we reduced the Spanish wines, we should be obliged also, by the French Treaty, to reduce to the same degree the French wines, unless they were already as low as the duties on Portugal wines. Thus should we be obliged to reduce the duties on both the French and Portugal wines, to the great diminution of our revenue, without the least probability of an equivalent. Mr. Fox maintained, that the Treaty was a tempting bait which none but gudgeons the most simple would have bitten at; and concluded a most able speech with moving, "That the chairman do leave the chair, report progress, and ask leave to sit again."

Mr. *W. W. Grenville* apologized for his troubling the House, conscious as he was that he had no pretensions to the eloquence and ability of the right hon. gentleman, nor was he able to cope with him at all in point of ministerial knowledge; but he nevertheless thought it his duty to rise and say a few words. He denied that his right hon. friend had said, that he rested principally upon verbal assurances of sincerity and professions of friendship for the good intentions of France. He had added various other reasons to induce him to believe the Court of Versailles sincere; but surely, if France was so powerful as she had been stated to be, it was an unanswerable reason why this country should unite herself to France by a commercial connexion. He could not agree that this country ought to stand forth ready on all occasions to assist others in attacking France, but thought that every measure which could be adopted that was likely to ensure the duration of peace ought to be adopted by her. He suggested, that, however respectable the manufacturers might be, that House was surely much more qualified to legislate than they were. He stated that the fifth article of the Treaty, which the manufacturers entertained doubts about, was copied from the Treaty of Utrecht, and was already in force. Speak-

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ing of our political interests he said, that he did not believe the description the right hon. gentleman had given of the influence France had over the other Powers, so as to make them adverse to entering into an alliance with us, was founded; but, on the contrary, he hoped and believed, that they felt very differently towards us. Yet the best alliance in his mind was, an alliance with our merchants and our manufacturers. Encourage the spirit of adventure and of industry, and that would necessarily increase the means, and furnish the resources to enable us to support a war, should a war become unfortunately necessary.

Mr. *Fox* rose to explain. The right hon. gentleman who spoke last, had said, that the Chancellor of the Exchequer rested his belief of the sincerity of France on something better than mere assurances and professions of friendship. Would the right hon. gentleman be so good as to say, from what symptom the Chancellor of the Exchequer was led to imagine France sincere? Was it from her kind interference in our favour with the Court of Portugal? Was it from her well-timed assistance at the Court of Russia, or of Spain, or any where else that we were negociating? The right hon. gentleman was not, it appeared, so ready to court foreign alliances, as alliances at home; he was for relying on internal and domestic, rather than seeking for external support and assistance. External means should always be looked after, because, if we had not a friend, we might have an enemy, in any other Power; and though a small Power could not do a great deal against us singly, there were circumstances under which the having a friend was of material consequence, be the power of that friend narrow and circumscribed, or great and extensive.

Mr. *Francis* rose and said:—Sir, I shall not begin, like the right hon. gentleman, (Mr. Grenville) with making an apology for endeavouring to obtain an audience at so late an hour; because I cannot admit that any endeavour to perform what I think a serious and important duty, does, in any circumstances, or at any hour, require an apology; but for my manner of performing such duty, I do most earnestly and unaffectedly solicit the indulgence of the committee. I came to the consideration of the present great and important question with a mind already occupied and agitated by another business in which I was actually engaged, and to which I had been forced to dedicate a considerable portion of my life. Independently of that avocation, I am sensible of my own inability to deliver my thoughts with the force and perspicuity which many others, long trained and exercised in this House, derive not only from their superior ability, but from the facility which custom gives them, of turning their ability to use and practice. I shall consider the subject at large, under the four general heads, into which the Chancellor of the Exchequer has divided it: namely, the commercial, the revenue, the naval, and the political view of it. Although it be a commercial treaty, the commercial view of it, while it suggests insurmountable difficulties and objections, is, in my opinion, the least important part of it. What I see upon the face of the Treaty is dangerous and destructive to its own professed object; but the real plan and purpose, which, as I think, lurks behind the commercial system, which, though not directly brought into view, is to be introduced and promoted by it, becomes the thing which strikes me with suspicion, with jealousy, and with terror. Upon this I shall explain myself more at large in its proper place, dismissing first that part of the subject, which is of least comparative importance. The general argument in favour of an open trade with France, which I find the most relied on, is founded on a general presumption, taken for granted, that our manufacturers possess a skill in the execution and finishing whatever they undertake, which the French never have reached nor can attain to, and which gives us not only an unquestionable, but an unalienable superiority over them; as if there were something in the nature of the French, some difficulty inherent in their climate or constitution, which makes them incapable of arriving at the perfection of our manufactures in general. In some articles I allow it to be true, that they are greatly our inferiors at present; but no reason occurs to me, why such inferiority must of necessity continue, if even the present treaty did not, as it does, tend to furnish them with means and opportunities of improvement, which they did not possess before. The examples chiefly insisted on by two right hon. gentlemen (Mr. Pitt and Mr. Grenville) were the English woollen and cotton manufactures, in which, as they affirmed, we actually were and must continue unrivalled. One of these gentlemen (Mr. Grenville) had ventured to assert, in express terms, that

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the great market of France being thrown open to us by this treaty, would take off more of our woollens than we now send to Portugal. These instances appear to me most unfortunately chosen; for France is in possession of the Spanish wool, and can import it on terms infinitely easier than we can. She might even, by her influence, exclude us from any share in it, whenever she thought fit. In fact, the French have improved their manufacture of cloth to such perfection, that they have beaten our Turkey Company out of the market, which we formerly had in the Levant for that article, and have engrossed it to themselves. The proposition, therefore, which affirmed that we should find a market in France itself, greater than that of Portugal and all her colonies, for an article which France was able to export to a foreign market, and in which she conquered us in that market, seems not only unsupported by proof, but absolutely absurd. With respect to our supposed unalienable superiority in various manufactures of cotton, I must request the committee to consider on what rational principle that idea proceeded, or what clear convincing argument there was for presuming that the French weavers, whose wonderful skill and success in the manufacture of silks and velvets are undisputed, should be deemed incapable of the same perfection in cottons. Let me recall to the remembrance of the committee, how strongly a similar idea has been combated by some gentlemen deputed from Manchester, at the bar of this House, and particularly that they have produced at the bar a piece of French cotton of extraordinary beauty, equal, as they said, if not superior to any thing of the same sort that had been produced in England.

In considering the commercial effect of this treaty upon our connexion with Portugal, I have an unquestionable right to argue upon a presumption admitted; namely, that the Methuen Treaty might possibly be dissolved, and our commercial intercourse with Portugal annihilated by it, since a right hon. gentleman (Mr. Pitt) has indirectly allowed, or certainly not expressly denied, that such might be the possible event. On the supposition of such event, had the minister of this country carefully and deliberately considered? If the Methuen Treaty (no matter by whose fault) should in fact be dissolved, might it not happen that Portugal might instantly prohibit the importation of all English manufactures? And if she did so, was the right hon. gentleman prepared with another market, not only to take off the goods actually provided for that of Portugal to the amount of a million sterling per annum, but to continue to receive a supply from us to the same amount in future? In my opinion Portugal might take that resolution safely, as a commercial measure, at least without fear of retaliation. If, as the right hon. gentleman truly observed, our luxury had converted wine into a necessary, that observation was particularly true of Portugal wines, which this country neither would nor could relinquish. The wines of Portugal, therefore, would continue to be imported; and if we did not pay for them with manufactures, we should pay for them with money. As to cotton, it was a raw material necessary to the support of our own industry; and therefore I presume, that let the provocation on the part of Portugal be ever so great, no man would think it prudent to retaliate by prohibiting the importaton of that commodity.

With respect to smuggling, while the Treaty professes to aim at the putting an end to all manner of illicit trade between France and England, it in reality effects the reverse of what it professes. Many provisions in it seem expressly calculated to give facility and sanction to a universal system of smuggling. It annihilates the Hovering Act, hitherto understood to be the principal defence of the revenue and security to fair trade. French vessels of any size or construction, and which, as the law yet stands, were to be deemed and taken *ipso facto* for smugglers, if seized within a certain distance of the coast, may now approach and sail along our coast at any distance they think proper, whether forced by storm into the havens or ports, or making land there in any manner whatever. They are not only not liable to be seized, but shall not be obliged to unlade their goods, or any part thereof, or to pay any duty. Again, as the law stands at present, on a discovery of any contraband goods, the ship and cargo are forfeited; whereas, by this treaty, nothing but the specific article prohibited is to be liable to confiscation. The ship itself, and the other goods therein, are to be accounted free. Our laws, as they stand, suppose a crime and denounce a punishment; whereas the mere forfeiture of the thing prohibited, (setting aside the diffi-

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culty of making any discovery at all) is no punishment, and therefore cannot deter. It only reduces the smuggler to a small possible risk against a great probable profit. On the whole of the commercial question, I shall beg leave to conclude with one general observation, supported by a strong fact, which I hope the committee will carry along with them. As to the mere exportation and sale of our manufactures, considered by itself, and abstractedly from the protection certainly due to the fair trader, and the necessary care of the revenue, it is nearly the same thing to any country whether the exportation be performed by lawful or unlawful means. Supposing the present treaty should really give a great increase to the open exportation of our manufactures, and should really demolish smuggling, the amount of the goods now smuggled ought to be set against that whole exportation, and our real gain would consist in the difference between them, and ought not to be rated at a higher value than what that difference amounted to. It was also unquestionably fair in estimating the value of the expected increase of our open exportation to France, to set against it all diminution of importation to other countries, of which this treaty had been or might probably be the occasion; and I much fear that, when all these deductions shall have been made, the final balance or real increase of exportation would prove very inconsiderable, and no way capable of justifying so hazardous a change of system as the present. The direct contraband trade to France is an object of some magnitude; the indirect contraband trade to France, through the channel of Flanders, is an object of still greater importance; the former was to be suppressed by the Treaty; the latter was already suppressed by a variety of edicts of the Emperor passed within these three months, which laid duties, amounting to a prohibition, upon almost every material article of English commerce, which, until within the last three months, had been freely admitted into Flanders on very light duties. We have therefore lost Flanders, not only as a great market in itself, but as a most favourable channel of communication and supply to the internal provinces of France, as well as to some parts of Germany. It was well known that the Emperor had taken these steps, so hostile and so injurious to Great Britain, in consequence of the avowed predilection of our Court to the interests of France, in preference to his, even in commercial matters, and as a just expression of his sense and apprehension of that secret union which he saw was forming between the Courts of St. James and Versailles, beginning with exclusion and apparently tending to hostility against him.

The subject of contraband trade naturally leads me to say a word on the system of drawbacks, as it stands at present in this country. The spirit of smuggling is greatly encouraged and inflamed by the drawbacks allowed, particularly on articles of re-exportation, and the whole system ought to be carefully revised. It frequently happens, that a pretended merchant, who is a real smuggler, will buy a bale of goods at the India-house, for example, value 100*l.*, will instantly agree to sell it to a retail dealer or shopkeeper at 95*l.*, and actually deliver it at that price, with a profit of 5, 6, or 7*l.* How? He enters the goods for re-exportation, receives the drawback, amounting to perhaps 8, 10, or 12 per cent., relands the goods either in the river or some convenient place upon the coast, conveys them to the shop in London, and pockets the difference. If this fraud is frequently practised now, as I know it to be, how much more easily, and how much more generally, will it be practised, when the present Treaty shall have laid open the approaches of our coast, and taken away all the existing restraints upon the French smugglers and other coasting craft established by the Hovering Act?

With respect to the improvement of the revenue by the suppression of smuggling, I fully admit the utility of the object, and hope that the professed intention to pursue it is sincere. But even here I see cause for suspicion and distrust: the right hon. gentleman (Mr. Pitt) has stated, truly and properly, in my opinion, the advantage that would arise to the revenue, by taking off the prohibition, and levying a duty upon French cambricks. I agree with him on this point, that as French cambricks are universally worn here, the open admission of them would be a clear gain of revenue to the amount of the duty, with little or no increase of the quantity imported; yet these advantages are obtainable by acts of our own, without the assistance of a treaty with France. But why is the operation of so just a principle confined to cambricks? For what reason

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is the prohibition of French laces continued? Why are they not admitted openly under a duty, when every body knows that such articles are very easily imported, and very generally worn. I am sorry to say, that for this inconsistent conduct, a reason has been suggested to me which does no credit to Administration. Buckingham is a favourite and protected county, of which one of the principle manufactures is lace. At first sight, it might appear that the prohibition, unwisely, because ineffectually, continued against French lace, was meant to favour the English manufacture, by securing it against that competition. Directly the reverse is the case; the public prohibition has been continued for the purpose of enriching the manufacturers of Buckinghamshire, by the contraband importation of French laces; and I am well informed, that above two-thirds of the laces sold for the manufacture of that county are in reality French, smuggled by the English manufacturers, rolled upon English cards, and sold by them as the produce of their own labour.

With respect to the revenue in general, I beg leave to urge one grand and important consideration, embracing the whole subject; that the Chancellor of the Exchequer has given an assurance to his country, and implicitly pledged his personal honour for the truth of it, that such was the flourishing state of our revenue, that, after providing liberally for all possible demands and services, after providing for the enormous interest of an enormous debt, there was an unquestionable surplus, to the amount of a million a year, applicable to the reduction of the public debt. Parliament has taken his word for the fact; and, presuming it to be true, authorized him to apply that supposed surplus, which, in the course of the last year, has been accordingly done. Now, admitting that the right hon. gentleman has not deceived himself or the nation, from what cause could such a state of facts, so full of consolation and encouragement to this country, be understood to arise? Would the right hon. gentleman himself, would any man, who knew what were the true sources of wealth or prosperity in any nation, ascribe it to any other cause, but to that long established, wise, and successful system of commerce, which the present Treaty with France professes to alter materially, if not totally to subvert? You acknowledge and insist on the benefits and profits of a commercial system, at the very moment when you are going to abandon it. So bold and hardy a move has never yet been made by any minister; should it fail, let him look to the consequence. Upon his own showing, he finds the commerce and revenue of his country in a flourishing state; the effect, as he states it, proves the cause; the wisdom of the actual system is, *de facto*, demonstrated by its success. He who voluntarily abandons, or, without some self-evident necessity, undertakes to change that system, ought to be, and certainly would be, made responsible for all the consequences of the change.

The right hon. gentleman has not said a single word on one of the most important questions naturally arising out of the measure which he now recommends; namely, in what manner it is likely to affect the navy of Great Britain. The certain effect, if not the acknowledged principle of the Treaty, to substitute a very near commercial market in the place of a remote one; at least to prefer the former to the latter. Setting aside for the present every commercial view of the measure, let the committee observe how it will act in other directions. Hitherto there has not been found a man in this country, hardy and shameless enough to assert in terms (what nevertheless a certain measure attempted did plainly imply) that the navy is not the natural, and the constitutional defence of this island; and for which, if it were once lost, there could be no substitution, no equivalent, no certainty of resistance against foreign invasion and conquest. There is not as yet a head in this country so fortified against truth and reason, as to venture to deny the truth of this proposition. Not even the noble duke, with the example of the Chinese before his eyes, who have surrounded their empire with a wall, and converted it into a prison, would have treated his country in the same manner. On this foundation, the right hon. gentleman has asserted, that if a commercial arrangement of any kind were ever so advantageous in point of profit, yet, if it had a tendency ever so remote to weaken or impair the navy of Great Britain, it ought to be instantly abandoned; and with so much the greater indignation and disdain, if it hoped to succeed by holding out temptations to national avarice to abandon the care of national honour and security. A commercial intercourse with France will be carried on in small vessels, by short trips,

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and by seamen, (perhaps even by landmen) who neither want much experience, nor can possibly gain any in such a navigation. The whole of it will be performed by skippers, smugglers, and packet-boats, and just as easily by the French as by the English. A remote market requires vessels of larger dimensions and better construction; it gives employment, exercise, and experience to our seamen, and is in truth the nursery and school on which the navy of Great Britain depends for its equipment. I am at a loss for terms to prove the truth of a proposition in itself so plain, or to establish the conclusion, which it forces upon my mind; the first is evident, the second palpable: I shall therefore content myself with putting to the committee the strongest case in point which my understanding is able to imagine, and leave it without argument to be determined by its impression. Supposing it possible to remove the whole of the foreign trade of England from the various remote countries with which it is now carried on, and to find an immediate reception for it in the single market of France; and supposing that by such transfer our commercial profits upon the whole were really to be doubled, or trebled, as long as the commerce lasted, would any man in this House, would any man in this nation, who deserves to belong to it, consent to such a transfer? The commerce which pretends to be conducted without a navy, acts directly on a principle of destruction to itself.

I shall now proceed to consider, in a general view, the general policy of the Treaty, as briefly as the importance of such a subject will permit. In this view of it, the measure is alarming indeed; insomuch that if every other objection to it were answered or abandoned, the obvious political tendency of the Treaty would be sufficient to condemn it in the mind of every man who is anxious for the honour, the virtue, and the freedom of Great Britain. But before I go to that general consideration, there is something material to be stated concerning the particular policy of the present Administration in their conduct to Portugal; and, in this place, Sir, I hope it will not appear improper in me to say, that, in the early part of my life, I had the good fortune to hold a place, very inconsiderable in itself, but immediately under the late Earl of Chatham. He descended from his station to take notice of mine, and he honoured me with repeated marks of his favour and protection. How warmly, in return, I was attached to his person, and how I have been grateful to his memory, they, who know me, know. I admired him as a great, illustrious, faulty, human being, whose character, like all the noblest works of human composition, should be determined by its excellencies, not by its defects. I should not have mentioned these circumstances, though I confess I am proud of them, if they did not lead me naturally to the subject immediately in question. In the year 1760, Mr. Secretary Pitt recommended it to the late King to send the present earl of Kinnoul ambassador extraordinary and plenipotentiary to the Court of Lisbon. The same recommendation engaged the noble lord to appoint me his secretary. The ostensible object of the embassy was to make a voluntary, and, therefore, an honourable excuse to his Most Faithful Majesty, for an unintended, perhaps, not a real, violation of his territorial rights, when admiral Boscawen, pursuing a French fleet, forced some of their ships to take refuge on the coast of Portugal, and burnt them near the shore. The real intention of the measure was to engage the Court of Portugal in an amicable discussion of various infractions of treaty on their part, and of sundry grievances which our trade to that country, and our merchants residing there, were said to have suffered. Hardships and grievances were complained of, then, as they are at present, many of them with reason, and some of them without it. I admit, too, that the Court of Lisbon, though otherwise very well pleased with the embassy, received our complaints but coldly, and shewed little disposition to give us satisfaction. While this negociation was depending, and before any thing like a redress, or even an answer, was offered us, the late marquis of Pombal suddenly surprized lord Kinnoul with a declaration that, from various appearances, he was convinced that the Court of France had determined to come to an open rupture with Portugal, and that, supposing that event, the King his master was desirous to know whether he might depend on the vigorous and effectual support of his Britannic Majesty. Lord Kinnoul immediately transmitted the requisition, with all its circumstances, to Mr. Secretary Pitt, who, the moment it came before him, considered and answered it as a wise minister ought to do on its own great poli-

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tical principles. Disdaining to suffer any commercial complaint, any grievance or interest at that moment in agitation, to be mixed with such a question, he instantly ordered the ambassador to deliver to the Court of Portugal the following declaration: "That his Most Faithful Majesty may be assured that the King will always consider the defence of the kingdom, and of the States of Portugal, (that ancient and natural ally of England) as an object dear and interesting to the honour and to the welfare of his crown and of his people, and the first in rank immediately after the preservation of the dominions of Great Britain herself." This is no state secret, nor does it belong to the official confidence reposed in me. The declaration was ordered to be made in the most formal and authentic manner, and to be delivered in writing to the Government of Portugal, in order that it might be preserved in the archives of that kingdom, as an everlasting evidence and pledge of the policy, of the good faith, and of the unalienable attachment of Great Britain to the interests of Portugal. But now, it seems, a new and wiser policy is to be adopted: the minister of the present day abandons the embraces of an ancient ally, to throw himself into those of an ancient enemy, because that enemy opens her arms and holds out tempting terms to seduce him. One would think, that, if he knew nothing of the true policy, or however he might despise the ancient maxims of this country, he could not so easily efface the impressions, or even eradicate the prejudices, which he must have imbibed in his earliest education; that he would at least have respected the example, though not instructed by the lessons of paternal authority. We are grown wiser in our youth, and now the wisdom of the son is to correct the errors of his father's age and experience. No wonder, then, that the same wisdom, mature at its birth, should think itself sufficient to remove or correct all the ancient inveterate prejudices, which once were called the wisdom of England. Perhaps it may be so; but, until I see what the real effect of such an alteration is likely to be, I cannot entirely trust to the right hon. gentleman's sagacity: his promises blossom like himself; we know not what bitter fruits they may produce.

The right hon. gentleman not only admits but triumphs in the novelty of the measure. He expressly allows that it militates against many ancient prejudices. Sir, this very language ought to guard us against the conclusion into which it endeavours to hurry us. Let us pause a moment, before we determine, that novelty and improvement, of necessity, go together, or that every thing which is ancient in the sentiments of our country, must therefore be absurd. It has been said, that the wisdom of a nation is expressed in its proverbs. One of the oldest in our language says, that "evil communication corrupts good manners." I do not mean to apply it to the right hon. gentleman; far be it from me to say that his manners are within the reach of corruption; though I cannot help thinking that his conduct in this business partakes of the levity and precipitation of his new friends and favourite nation, which perhaps may have infected him. "Eodem animo in consilium, quo in pugnam ruunt." I hope the right hon. gentleman's eagerness to learn French will not make him forget his English, that, while he imports the wit and genius of France, he will not prohibit or discourage the use of English common sense. My serious opinion is, that the nearer the two nations are drawn into contact, and the more successfully they are invited to mingle and to blend with one another, in the same proportion the remaining morals, principles, and vigour of the national English mind, will be enervated and corrupted. We shall be civilized out of our virtues, and polished out of our character. He, whose ultimate purpose is to enslave a free people, always begins by endeavouring to corrupt them; and whether it be his purpose or not, the road he follows can lead to no other object.

But we are told, that one merit of the present measure is, that it militates against many ancient prejudices. Now, supposing the opinions in question did really deserve that name, is it clear, that it would therefore be safe or prudent to eradicate such opinions? The judgment of a nation appears in its proverbs; the virtues, and possibly the vices of a nation, appear in its prejudices. To cure a whole people of their prejudices, is to efface their distinct character. There is no such thing in existence as a moral or immoral nation. The national mind is formed by circumstances external to it, not upon the internal principles. The French and English, we say, are natural enemies; not because there is any natural antipathy between them. On the contrary, no people agree better in private life. It is their relative

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position, their vicinity to each other, that furnishes a perpetual source of dispute, that makes them rivals in peace, as well as enemies in war. Nations which border on each other never can thoroughly agree; for this single reason, because they are neighbours. All history and experience assure us of the fact. If their respective power be very unequal, that very inequality is another source of enmity. One of them will always be formidable, the other will always be suspicious. As long as the Scotch and English stood in the relation of neighbours to each other, how was it possible they should agree? That cause of opposition ceased at their union, and now, instead of mortal enemies, I trust in God they are immortal friends. With respect to the French, if peace can be preserved between us on terms of honour and security to England, who is there so mad or wicked as to refuse it? But take care that the peace be armed. As to an alliance or intimate union between the cabinets of a despotic and of a limited monarchy, it is not antipathy, it is not prejudice; it is the policy, it is the wisdom, it is the experience of England, which ever have and for ever should deter us from accepting it. I need not look back to the days of Agincourt and Cressy; for neither could causes so remote have operated so long, nor is a battle between hostile nations any more than a duel between individuals a motive for hating each other. The battle and the duel rather act as a crisis, which kills the parties, or cures the disease. It has been the deliberate policy, not the passion, of England, in all times, but those of the House of Stuart, to prefer the friendship of any distant nation to that of France. Lord Herbert's life of Henry the Eighth furnishes a most remarkable passage in point. He says, "The king's council thought fit to advise with him concerning marriage, about which many propositions being made, the graver sort told him, that the same reasons which made his wise father choose to match with Spain were in force still: that his pretences being on France, no alliance could be useful on that part. Besides, that betwixt great estates adjacent to one other, such jealousies use to rise, that they make peace sometimes, but never friendship. The leagues and confederacies have in them the nature of harmonial accords, which jar in the second, but agree in the third interval; therefore that he should match with Spain, or at least with some Prince that might join with him, when there should be question of opposing France, which, since that late union of the dukedom of Bretagne, he was to consider as a potent and dangerous neighbour." Such to this day has been the true English principle of English councils. But now, it seems, we are arrived at a new enlightened æra of affection for our neighbours, and of liberality to our enemies, of which our uninstructed ancestors had no conception. The pomp of modern eloquence is employed to blast even the triumphs of lord Chatham's administration. The polemic laurels of the father, must yield to the pacific myrtles which shadow the forehead of the son. Sir, the first and most prominent feature in the political character of lord Chatham was anti-gallican. His glory is founded on the resistance he made to the united power of the House of Bourbon. The present minister has taken the opposite road to fame; and France, the object of every hostile principle in the policy of lord Chatham, is the *gens amicissima* of his son.

Sir, if nothing more were intended than what is avowed, and admitting that there may be no secret compact between the two Cabinets, an intimate union with France must always be disgraceful and degrading to England. From the common discourses of the French, you may collect what their views and expectations are from such an alliance. Their constant language, wherever an Englishman can hear it, is invariably to this effect: Let France and England unite, and let us govern the world. For such a purpose, undoubtedly, the force of this country would be a powerful weapon in the hands of France; but in such a connexion let us previously consider what is likely to be our station. When they talk of contracting a marriage between the two nations, if you ask them which of the two is to be husband, their invariable answer is, Why, certainly France. To us the question is infinitely more serious than any thing which concerns mere rank or precedence. The reflections which belong to it are too obvious to require explanation, and too hazardous to be expressed. There may be a strict union between the two Crowns, though never between the two nations; and that union, at some future period, may be fatal to the liberty of Great Britain. If the present impatience of the House would permit me, it would be superfluous to say more.

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Mr. *Flood* said, that he should only trouble the committee with a word or two. He had presented himself to the chair as soon as the Chancellor of the Exchequer sat down; but after the right hon. gentleman who spoke next, had been heard, he wished to wait till the splendour of his eloquence had vanished from their sight. At that moment the committee were so fatigued and exhausted, as well as himself, that he was as incapable of speaking as they must be unwilling to listen. It was his intention, however, in the best manner he was able, to endeavour to describe the principles on which his decision would hinge; but as there would be another opportunity of doing that, and the question then before the committee was, "that the chairman do leave the chair," he would content himself for the present, with giving his vote for that question.

Mr. *Powys* observed, that the Chancellor of Exchequer had been pleased to assert, that the Treaty would prove a vast extension of the national revenue: if those allegations could be fully and fairly made out, he was persuaded, that the right hon. gentleman deserved the thanks of his country for his good intentions, and his very important services. With regard to the hazard we had run in such an intercourse, he saw no great risk, except in two articles, glass and cottons. The glass manufactory, he conceived, would be utterly annihilated by the Treaty; and he greatly doubted whether the cotton manufactory would not be injured considerably. The resolution that had been moved, he looked upon as conclusive, and binding upon the committee if they agreed to it; and the right hon. gentleman had fairly told them (for he had taken down his words) that he neither desired nor expected any gentleman to vote for the resolutions, unless he thought that the Treaty proceeded on a safe principle, and that it would be highly advantageous for the country. To the latter he was not yet prepared to speak; and as to the safety of it, he was far from thinking it safe; therefore he should vote for the chairman to report progress.

Mr. *Baring* remarked, that the commercial Treaty appeared to him to have its advantages and its disadvantages. In some articles it would prove beneficial, in others the reverse; but, upon the whole, commercially considered, he thought it greatly in our favour. He considered the Methuen Treaty as a commercial boon given by Portugal to this country for political purposes. Our taking the wine of Portugal, therefore, was out of the question. With regard to the fish, that was a distinct affair, established and adjusted long before the Treaty of Utrecht; but Portugal could supply herself elsewhere. She might supply herself from France. As to her wines, it had been asserted that Portugal would profit by rooting up all her vineyards and sowing wheat, of which latter she imported annually a considerable quantity. Our taking port wine of Portugal, therefore, was not of the consideration that some gentlemen seemed to imagine.

The Committee divided on Mr. Fox's motion, "That the chairman leave the chair:" Yeas, 118; Noes, 252. The main question was then put: Yeas, 258; Noes, 118.

Feb. 15. Mr. Pitt moved, "That this House will now resolve itself into a committee of the whole House, to consider further of so much of his Majesty's Speech to both Houses, upon the 23d of January last, as relates to the Treaty of Navigation and Commerce between his Majesty and the Most Christian King."

Mr. *Fox* said, that as so few members were present, as the two ballots had ended so late, and as the importance of reducing the duties on French wines was so vast, he thought that the matter should be deferred until a more convenient opportunity. Besides, what operated materially against the present motion was, there being no positive order of the day for it, and therefore gentlemen did not come down, not having the slightest opinion of its being now resumed.

Mr. *Pitt* contended, that it was an unquestionable fact that he had given notice of his intention to resume the subject upon the present day, and he therefore believed that there were not three persons in the House unapprised of his intention to make this motion. He even was convinced that the right hon. gentleman was not one of the three; and until he heard from the right hon. gentleman himself, that he did not expect it would come on, he should certainly persist in his motion.

Mr. *Fox* begged to assure the right hon. gentleman, that, for his own part, he did not expect that it would be resumed, although he confessed that he knew such was the right hon. gentleman's intentions; yet, as he knew that there were two ballots, each concluding so extraordinarily late, he

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did expect the present motion could not be made. He reminded the House, that Mr. Flood had in the former debate promised to give his sentiments, which he then deferred from the lateness of the hour; and, as he was not present, he thought this an additional argument to defer the motion.

Sir *Francis Basset* observed, that he also could with truth assure the right hon. gentleman, that he was very far from conceiving the least idea that he would attempt to resume the subject of the commercial Treaty, after the House had been so long engaged with the two ballots. He did not think it becoming to hurry a business of this important nature through Parliament; and he should therefore move, that instead of 'now,' the words 'tomorrow' be inserted in the question.

The House divided on the question. That the word 'now' stand part of the question: Yeas, 145; Noes, 59. The House having accordingly resolved itself into the committee, Mr. Beaufoy in the chair,

Mr. *Pitt* said, that as he had on a former day trespassed at great length on the indulgence of the committee, and had touched upon the general merits of the Treaty, he would not then take up any more of their time than barely to state his motion, which was, "That it appears to this committee to be expedient, that wines, of the produce of the European dominions of the French King, imported directly into this kingdom, shall, in no case, pay any higher duties than the wines of Portugal now pay."

Mr. *Flood* rose and said, that when he considered how great a portion of the day had been consumed in the discussion of various points, he felt himself in some degree impelled to wave at present, the intrusion of his sentiments upon the patient hearing of the committee; yet, under the conviction that the subject which the right hon. gentleman had just offered to their investigation was of a nature infinitely too important not to challenge their most serious attention, he should beg leave to avail himself of their indulgence, whilst he delivered his own sentiments, in the fullest disposition to pay all proper deference to those of others. He would endeavour to state his reasons against the policy and principle of the Treaty, in as brief a manner as the nature of the subject would admit. His first and chief objection to the Treaty was, its being contrary to every principle of policy which former ages had adopted, which the present should preserve, and which he had trusted the future would always require. He should consider it as an indispensably leading principle, that England and France are naturally and invariably rivals. This principle must continue to operate so long as Britain maintains the character which she has hitherto supported, of guardian of the liberties of Europe. When she is content to resign this glorious distinction, she may enter into as close bonds of amity with France as she thinks proper; and he feared that the relinquishing of Portugal was a symptom which prognosticated the sacrifice of that distinction. In support of this he would adduce an argument which was and would be always great with this country, and should be omnipotent with the right hon. gentleman. He meant an argument of the most respectable authority; that which most men revered; that used by his great father, the illustrious minister of this country, when he refused agreeing to the establishment of the Family Compact in 1762, and resigned in consequence of the rest of his Majesty's Council approving of the measure. His words were, That he had a rooted jealousy, a fixed antipathy, and an unalterable alienation, of mind towards France, and that France and England were not merely rivals in commerce, but rival potentates. Now, added Mr. Flood, if they are already rivals, how must that rivalship be increased by a mutual emulation in commerce!—for nothing excites more jealousy among nations than commercial advantage. This ancient rivalship, or animosity, call it which you please, will therefore rather be increased than extenuated by the commercial Treaty. The Treaty, if good for both, can really be so to neither—so far, at least, as respects themselves. With regard to other countries, indeed, the consequence of both may be diminished. If equal in point of commercial advantage, the Treaty cannot be very desirable; nor can it be desirable to us, unless it be greatly in favour of England; and that, from the acknowledged policy of the French Court, is more than the most sanguine patriot could hope for. We have often beaten the French in the field; but it has never yet been known, that we have gotten the better of them in the cabinet. This connexion with us, that sagacious people had frequently coveted, and had sometimes succeeded in acquiring. It was unnecessary to go back to history,

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or to recapitulate minutely the advantages which they gained under Charles 2nd and his brother, or their subsequent disappointment in the shutting up of the ports by king William. This, however, would appear from such a research, that they had fastened on every opportunity of procuring this intercourse with England. The attempt was very near being successful in queen Anne's reign, but was prevented by the wisdom of Parliament. They had afterwards attempted it in 1762; and since that in 1783. Thus what the French have been eagerly grasping at for the course of a whole century, we are throwing to them in a minute, with the facility of children. Nor was it without reason, that they bent their utmost endeavours to obtain this intercourse with England. Whilst the ports of the two nations were open to each other, the balance of trade was uniformly against us. This may be denied, as in fact it has been; but though falsehood may have its effects for a time, yet the impudence or arrogance of an unprincipled individual cannot have power enough long to controvert the opinions, or support itself against the experience of a whole age. But it may be argued, with an air of plausibility, that the principle which was erroneous then, may not be so now. Inapplicable indeed is this argument to the comparative condition of France. In what points of view that eminently superior statesman, his exalted father, had considered the rival powers of England and of France, the right hon. gentleman who now presided over the government of affairs must well remember. Who could, then, expect to see a system so repugnant to his principles adopted by the son?

But to show that the end of this Treaty with France, this Treaty of friendship, harmony, and confidence, was absurd and impracticable, he should state as briefly as possible his reasons. In doing this, all repetitions he would most carefully avoid. He should not therefore, repeat, that every attempt to open a commerce with France had proved abortive. He should not press the remark already made that James 2 had opened our ports, and that William had dammed them up again. He should not repeat, that every treaty we had formed with this rival served but to convince us of its being impracticable to form a permanent intercourse of friendship and mutual reciprocity. But whence came it that we had now this assurance of her affection towards this country? How long had she shown this liberal sentiment towards Great Britain? In what was it displayed? Was it in the usurpation of Corsica, or in her political intrigues against our interest and alliance with Holland? Or was it in her assistance of America, by which we were dismembered of that part of our empire? If she entertained this kind intention towards a liberal union of commercial interests with Great Britain, it would certainly have been displayed. He saw no signs of friendship in her behaviour towards this or any other country. Her principle of policy was, to hold the sceptre of Europe. And what prevented her from this object of her ambition, but the power of Great Britain? Shall we, then, resign a power which has preserved the liberties of Europe, by controlling her schemes of universal monarchy? Is it consistent with that policy which causes all Europe to depend on us for their protection, against the intrigues, ambition, and encroachments of France, to think of depending on her assumed friendship? This was not the policy of Queen Elizabeth, who raised the power and glory of this country to that height, as to render it the sole arbiter and protector of Europe. She, when our resources were infantine, our commerce but just expanding its various branches, and our national spirit arousing itself from the languor of preceding reigns, did not think of establishing her glory on a commercial alliance with France. She considered this country as her rival in consequence, and therefore sought those means of power in foreign commerce whenever it could be obtained. And the same principle which actuated this great queen, actuated likewise that usurper, as he might be called, Oliver Cromwell. Although he did not enter into any offensive wars against France, he did not think it consistent with the political consequence and situation of this country relatively to other European states, to form any commercial alliance with this aspiring power.

Several particulars of relative commerce between the two nations, were worthy of the present consideration of the committee. During the reign of Louis 14, and under the administration of Colbert, were manufactures introduced into that kingdom. They have been since continually increasing; and if they were formidable then, what must they be at the present moment? If our manufactures have improved, why should not those of France have advanced

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likewise in improvement? It has been asserted, that France is a country of natural produce, England of artificial manufacture. But this is not exactly the case. She is not merely a country of produce alone, but also of manufacture. She supplied all her own inhabitants, and many others of neighbouring countries. With regard to the idea or argument which had been used, of Great Britain enjoying a market, by virtue of this Treaty, containing twenty-four millions, while France only could acquire from it a market containing eight millions, he could not perceive its force or propriety. When two markets were opened to each other, it should be considered and established upon the most clear and indisputable evidence of reciprocity. But was this the circumstance of the present Treaty? Where was the reciprocity? It was impossible that any reciprocity of commercial interests should subsist between Great Britain and France: they were too near each other. From the similarity of their climates, their wants must be too similar to admit of any extension of market. For the only means wherein two nations could benefit each other by treaty, were, when their wants become dissimilar, and thus could take from each mutually what might increase the labour of their people, and accommodate themselves. But this was not to be said of the situation between France and Great Britain. Their manufactures were nearly the same. Had they not one hundred towns now employed in the woollen manufactory? Had they not considerable iron works? Were they not establishing with all possible expedition and encouragement the manufactory of cottons? And would they not be able to rival us in the purchase of the raw material in Asia, from the assistance and perhaps the connivance of the Dutch? And what were we to take chiefly from them? We were to take from them their wines and olives, and for which he could not perceive the least prospect of their taking any of our manufactures in return. For most of our manufactures they had already in great forwardness and perfection. It had been argued, that their wines, brandies, and olives, were luxuries for which we should necessarily send in return our manufactures, to the great extension of the employment of our citizens, the emolument of our merchants, and the increase of our revenue. This argument he could not admit. For the produce of wines and olives in France were such as would greatly give to her the advantage in this commercial intercourse. From her climate, she possessed a physical monopoly of these articles. And as we were now agreeing to diminish the duties on them, we were opening a market for commodities, which would drain us of a considerable quantity of bullion. Our manufactures were such as she mostly manufactured herself, and therefore it could not be supposed but we must pay in specie a great portion of the amount which we imported from her of these luxuries. As to the number of inhabitants in France being three times more than those of Great Britain, this could not be any argument to prove that we had the least advantage in the Treaty. The question was not, which country had the greater number of people—it was, whether eight millions in Great Britain did not consume more clothes and merchandize than twenty-four millions did in France? And was not this most likely to be the fact? It was well known which was the most luxurious nation. If, therefore, we consumed more than France, admitting the reciprocity in every other consideration of the Treaty, yet in this particular it was obviously to our disadvantage. With respect to our serving each other mutually, France enjoyed an opportunity which would always render our hopes abortive. The court and fashion there were such as to enable her at any time to suspend the consumption of our manufactures, and to increase their own. We might, therefore, make treaties with a view to reciprocity, but the idea was absurd. She had always, by the means of her court and fashion, the power of causing her own manufactures to be worn instead of those of any other nation whatever; and while she possessed it, she would never forego its exercise in her favour.

The impolicy of seeking a foreign market, which was always uncertain, while we possessed a home consumption, which nothing could possibly diminish, except a diminution of our credit, and the emigration of our manufacturers, was a subject which naturally led him to state, that the average of our exportation of corn, notwithstanding the bounties given for its encouragement, was only in the proportion of one to 32 with regard to our own consumption. He remarked this to show how inconsiderable our exports were of this article on which a bounty was allowed, when compared to what we consumed at

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home. But he yet farther observed, that the average calculation of our annual exports had been from 88,000,000*l.* to 90,000,000*l.* And if these exports bore the same proportion to what our home market required, as the export of corn did to its consumption in Great Britain, how inconsiderable must be our own market! But, admitting that we consumed ten times more instead of thirty-one times, what an astonishing resource of trade this evidently proved that we possessed in ourselves! Was it, then, wise to admit a rival to the participation of a market so considerable—a market which had supplied us with many resources for war that scarcely any nation could boast beside our own? Adverting to the system of colonizing, to show that the principle was merely to establish monopolies for our own trade, Mr. Flood observed, that in all commercial treaties with foreign powers, the policy was to acquire as many of these in your favour as you possibly could, and to diminish, if possible, those with whom you were in treaty.

To think of entering into a negociation of mutual and commercial intercourse with a rival was, therefore, the most absurd and chimerical scheme that ever was adopted. Such was the nature of two rival powers, that it was impossible but one must have the advantage of the other in all treaties of this nature. And that nation would have the advantage which was the poorest and the most abstemious. Which was the richest and most luxurious, was too evident to require him to declare. Would not France, he asked, with her wines, brandies, and olives, draw from us our specie in proportion to her wants and our own superiority in wealth? She certainly would, and therefore we should find ourselves not only supplanted in our resources for wealth, but drained of the remaining specie we had to support our credit. With respect to credit, he stated, that France certainly possessed less credit than we did. The trade in which France engaged was not by any means to that extent of capital on which we conducted our commerce. Our paper and credit enabled us to transact such a portion of trade, as was, he believed, unexampled in every other nation. We should, therefore, be very cautious of entering into any negociation which might tend to drain us of that portion of specie indispensably necessary to preserve our credit from being diminished. This was a consequence he was apprehensive would follow from the Treaty. As it was a fact that the poorer nation would always drain from the richest in all commercial intercourses, France must ultimately diminish our specie and increase her own. These were objects which pressed immediately upon his apprehension. Not that he was apt to despond. He knew that the resources of this country had been found inexhaustible. Being able to defend herself against such a combination of powers as she had lately resisted from the aid of these resources, must convince every one of her native vigour. And yet we spoke of treaties as if they were to give an almost endless permanency to peace. The idea of rendering peace durable by entering into a Commercial Treaty with France, was, as experience proved, a false suggestion. If we agreed with France at home, she would fortify in Asia. We made a treaty of alliance with Holland, and in the same year the massacre at Amboyna was perpetrated. Our conduct was most unaccountable. Had we on a sudden forgotten our old prejudices, and our well-grounded jealousy of France? or had France abandoned her ambition, and clothed herself in the garb of humility? Was it owing to a cause which he dared not name? All Europe were beholding us with astonishment, and wondering what could have induced us to give up the glorious character which had preserved our liberties. In the course of the last war, we had exhibited a scene which excited the admiration of the world—resources beyond all conception—firmness and valour beyond all example—wherever danger challenged, we presented our front to it—often harassed, but never ruined. It seemed as if nothing but the thunderbolt of Heaven could accomplish our annihilation.

With respect to what had been observed by the right hon. gentleman (Mr. Pitt), that the merchants and manufacturers of the country had not given any specific objection to the Treaty, he had only to controvert this assertion, by producing what they had actually said against it upon oath. Much had been contended for in favour of the Treaty, from the supposed silence of the manufacturers. But these men could not oppose the Treaty, till it was offered to them in a complete state; and this could not be the case before the convention was concluded. As men of business, time was necessary for them after this; and as to the smallness

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of the number who are said to have declared against the Treaty, that should not be adduced as an argument; for the Chamber of Manufacturers was a representative body, and acted for a vast number of persons. They only desire time for themselves to deliberate, and in the same moment advise you to take it. There is no occasion, therefore, to hurry on this business from the silence of the manufacturers. They have in reality spoken out in the most emphatic way—in the Treaty with Ireland! Till they should come to the bar of the House, and retract what they had said, he declared that he should consider them as having delivered their sentiments on the Commercial Treaty. They had predicted infinite losses from the removal of the trade from this country; now, if they should retract, it would be curious to consider on what ground they would withdraw. Would it be, because France is a great manufacturing country, and Ireland not? Because she is full of inhabitants, and Ireland comparatively desolate? Would it be because France is a country rich in its prodnce, and Ireland almost barren? Or, if benefit is to be derived from the Treaty, were they apprehensive that Ireland would have it, while they entertain no such uncharitable scruples in regard to France? He would ask the woollen-draper, if France has not a hundred towns in that manufactory, for one that Ireland has; and whether she has not undersold this country in foreign markets, which Ireland never so much as attempted? He would ask what natural advantages Ireland has, that should give such an alarm to England, while she participates with France all her benefits without apprehension. Is it her wines and olives, or the physical monopoly of her climate; for all which she ought to get the most luxurious and opulent customers? Another commercial advantage to France, is in the nature of her tribunals, compared with ours: and in the disposition of the people. Here people will have what they long for, however detrimental the consumption may be to the country. But in France, besides the law of the realm, there is the restraining law of the court and the mode. It is curious to obsefve how arguments are varied, and facts opposed, to answer various and opposite purposes. At one time, France cannot rival us in our manufactures, because she is poor; at another it is said, we must derive great advantages from our trade with her, because she is rich. But if France is rich, England is more so, more expensive and luxurious. This might render it dangerous for us to part with our cautionary laws. By protecting our trade, we preserved and increased it for more than a century. Spain, on the contrary, by neglecting protecting duties, had lost her trade, and ruined her finances. How much more easily might the same cause produce the same effect with us, who have not the same resources in the mines of Peru, of Mexico, of Chili and Potosi? The great object of a nation should be to supply herself. Two bordering countries can seldom supply each other with advantage. Their wants and their superfluities have too great a similarity. France could furnish us with nothing but luxuries; and he would venture to assert, that with no nation could we maintain a less useful commerce.

Upon this subject, he should repeat his questions. Had not the manufacturers at the bar of that House given their evidence on oath against the Treaty with Ireland? Was not their evidence then sufficient to prove that the present Treaty must be destructive to their interests? If a Commercial Treaty with Ireland was thought to be so destructive to the trading interest of this country, what must it be with one that has five times her credit, eight times her population, and forty times her capital? Did they not prove that it would tend to their inconvenience at the bar of the House? Have they denied any of the evidence they then stated? Or have they intimated their wishes to retract what they have said on that occasion? If they have, I should wish to see them admitted to the bar of the House. I would then ask them on what principle they could agree to suffer France, a rival with so considerable a capital, to participate in their markets, when they refused Ireland, a country without money or artificers, the enjoyment of this privilege? I would ask them why they did not fear the removing of their manufactories to France when they did to Ireland? I would ask them, why they were not apprehensive of being rivalled in all their foreign markets by France from this Treaty, when they dreaded so much the power of Ireland, where neither property, resource, or commerce, in any degree existed to excite such alarms, alluding to the injustice of not granting to Ireland those advantages

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which this Treaty had given to France. Mr. Flood condemned greatly the conduct of Mr. Eden, who had been an opposer of the Treaty with Ireland, and the negociator of this Treaty with France. If it were unsafe or impolitic to grant commercial benefits to Ireland, the danger must be still greater to grant them to a rival, who would derive from these advantages the power of increasing her own resources and impoverishing ours. But if this Treaty was to be defended on principles of policy and expediency, it must be condemned on every principle of justice, with regard to giving such participations of trade to her, and denying them to Ireland. Here he took an opportunity of stating the stipulations, on which these advantages were proposed to Ireland. By the propositions it was stipulated that Great Britain should monopolize great part of Asia, all Africa, a considerable portion of the West India islands, no small share of America, and as large a degree of Europe. Such were the stipulations in favour of Great Britain; and yet Mr. Eden, the negociator of the present Treaty, had been the steady opponent of these propositions. Whence did it arise that this negociator could dare to open our markets to France, with scarcely one stipulation in our favour, after he had so strenuously opposed the Treaty with Ireland, in which we had preserved our monopolies in every part of the globe?

Having thus considered its relation to the Irish propositions, and having argued it both in a political and commercial view, he proceeded to view it in its relation to other nations. Impolitic was it to lose an opportunity of making an alliance with Portugal; a country from whence we had derived so many and essential advantages. By this Commercial Treaty, the moment Parliament should have finally given it their sanction, the Methuen Treaty must become destroyed; for the principle of that Treaty, namely, admitting the wines of Portugal one-third under those of France, had no longer an existence, if the duties on French wines were reduced to the present duties on those of Portugal. It was true, he admitted, that by lowering the duties one-third on Portugal wines afterwards, the Treaty might be renewed. But, to be obliged in consequence of this Commercial Treaty to admit wines from France on the same terms as those of Portugal, would be evincing that you had abandoned that principle of policy which had been the cement of your alliance with that country. Would she not, therefore, consider, that the inducement no longer existed which had been the cause of your long and prosperous friendship? This would certainly be a great obstacle to her desires to enter into treaty with you again. Besides, you had resigned the advantage you before possessed of almost commanding the renewal of the Treaty. This commercial alliance with France must convince Portugal, that you had abandoned every principle of policy which had been her best defence against superior and neighbouring powers. Therefore, that which tempted her to court your protection by so advantageous an alliance no longer existing, you could not expect that she would hasten to renew it. If she did, it might possibly be on terms much more advantageous to herself and detrimental to you.

After stating these particulars respecting Portugal, he adverted to Spain. He mentioned the renewal of the family compact by this Treaty, and for no other stipulation than that of having the privilege of lowering the duties on Portugal wines one-third below those of France. What were the advantages to be expected from this concession? Were they not merely ideal? They were visionary. If you did not renew the Treaty with Portugal, you had agreed to receive the luxury of a country for which you must give in great part your bullion, and had agreed to the revival of a compact which destroyed all the former privileges you possessed, not only in France, but in Spain, before this Treaty was negociated. He observed that to abandon allies who had been so serviceable in their friendship, for speculations of commercial intercourse with those whom nature, policy, and religion, must unavoidably continue our secret if not our avowed enemies, was the most ridiculous conduct that ever could be adopted in the government of a country. The favours of Spain, France by this Treaty had secured. She would possess every advantage which we might otherwise have enjoyed. Those articles which were so indispensably necessary to our manufactures we should no longer be certain of importing. The re-establishment of the family compact would be the greatest accession to France in the importation of fine wool particularly, and the greatest disadvantage to us from the loss of this invaluable raw material. Stating thus his

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view of the tendency of the Commercial Treaty, considered in its relation to other countries, he advised the committee to delay any farther proceeding until they could form their opinions on its merits. Surely what the manufacturers asked in their petition was not so unreasonable. They did not ask Parliament to adopt any opinion. They only wished that they would suspend their decision until more information could be obtained on the subject. This was not the voice of impertinent embarrassment; it was the respectable voice of supplication that Parliament would suspend their operations in a measure, wherein they consider that their interests were so deeply and most interestingly involved.

Mr. Flood, apologizing for the length of his remarks, added, that it was much more agreeable to him to forego any personal reputation which he might acquire in the exercise of his duty, than for a moment to engage the attention of the committee with a single sentence extraneous to the subject. But he had uttered these sentiments solely from a desire to state to the committee what he conceived sufficient reasons for his voting against the whole principle of the measure. It appeared to him founded on the most absurd policy which had ever entered into the conception of man. It destroyed all the principles of policy which had directed the commerce, navigation, and alliances of the country. Did it not tend to subvert every support which we derived from the dependence of European states on our power? Their dependence gave us the support of the connexions which they were desirous to form with a nation whom they considered as the guardian of their political existence. From this conduct and character, we had drawn all our greatness. From the war of 1688 until the present period, we had always been successful from our own commercial consumption at home, and our alliances abroad. But these means would, by this Treaty, be all forfeited. We should lose all our character and consequence in the opinion of all Europe. No longer should we be considered, as we had been, the guardians of their liberties. Is there any one reason, then, in favour of this Treaty? View it in a political, commercial, and relative situation to other countries, and you find it fraught with destruction to all our former glories, and our present greatness. No part of our acquired prosperity but it threatens with rapid and immediate annihilation. It commands you to recede from every other European friend, and to bury yourself in the embraces of France, your unalterable enemy. Who formed this negociation? Would they ask him to withdraw the pillars which had been the support of the nation's glory? No! he should answer. Would they ask him to repeal the Revolution? No! The Treaty was hurried through the House. It was fraught with so much danger to the state and constitution, that he begged they would delay the proceeding until the manufacturers of the country could be apprized of its real nature and tendency. He was assured that they were men of the greatest knowledge and respectability, and, of all others, the most capable of informing the House of the real merits and tendency of the Treaty: and without this consultation of their opinions, he thought that if the Treaty passed, the most alarming and destructive consequences must ensue to this country. In conclusion, Mr. Flood said that he was resolved to meet every principle of the Treaty with his dissenting vote.

Mr. *Wilberforce* said, he would deliver his sentiments to the House, however sensible that he must appear to no small disadvantage after the great eloquence and ability of the right hon. gentleman who had preceded him; yet he confessed that the right hon. gentleman's speech had failed of producing conviction in his mind, which might probably be, because he had hinted at proving propositions, to the proof of which no abilities whatever were equal; besides, if the right hon. gentleman's arguments against the Treaty were sometimes powerful, he had taken off their effects by supplying the answers to them himself. Mr. Wilberforce then pointed out several inconsistencies in Mr. Flood's arguments; as that the Treaty was objectionable, because tending to harmony between us and France, of which we ought always to consider ourselves as the natural and jealous rivals, and yet saying at the same time that it would be in vain for us to hope by a commercial connexion to extinguish the spirit of animosity, adducing the instances of the Dutch at Amboyna in support of the assertion, and contending that the competition of trade would foment the national principle of rivalship. The right hon. gentleman had maintained, that France supplied herself with manufactures, and yet spoke in ano-

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ther place of the goods we smuggled into that country;—that we should not attempt to enter into trade with an inimical power, yet spoke of the value of the Spanish trade to us, though acknowledging France was always sure of her. But the right hon. gentleman had rested much on the opinion of the manufacturers being contrary to the Treaty: this Mr. Wilberforce declared, he knew not to be the case; they were almost universally favourable to it; nor was the state of things the same as in the instance of the Irish propositions; nor were the arguments applicable which had been urged against that measure: the great apprehension then was, that the Irish manufacturers would be set to work with English capital; but in the present case there could be no such ground of apprehension; besides the reluctance every Englishman would feel at living under a despotic government, and trusting his property to the arbitrary and uncertain determinations and principles of a French tribunal (arguments of which the right hon. gentleman himself had admitted the force, though not then aware of the conclusion), would they be likely to erect those expensive works, and construct those machines which were necessary in carrying on the great manufactures, when the Treaty was made but for a term of 12 years? This shortness of the term of its duration, was a complete answer to this and many other arguments that were urged against it; for that term manufactures were as permanent an article of supply as produce, though much had been said of the disadvantages attending an intercourse between two countries, when the one furnished the fruits of the earth, a constant produce, whilst that of the other was variable and transitory, as manufactures were ever shifting from place to place. The right hon. gentleman had made great use of the figure of speech called the dilemma; and he must say, he thought the right hon. gentleman had involved himself in one, by making it necessary for him either to give up his arguments or his vote.—A commercial intercourse with France had, it was said, been formerly unfavourable to this country; but then, it must be recollected, our woollens were excluded from their markets by prohibitory duties; most of our capital branches of manufactures were then either in their infancy or wholly unknown, whilst they had the liberty of bringing in their silks, which were now prohibited, and their linens, which our linen manufacturers were now not afraid of meeting in our market. Not to mention, that all the connexion with France was then a matter of just alarm, when from the inclination of the Court the most serious dread was universally prevalent, both for our civil and religious liberties; when every well-wisher to both knew the dangers that surrounded us, and was anxious to preserve the Protestant succession, and resist the claim of the Pretender to the throne.—Mr. Wilberforce then gave many reasons why he thought the Treaty would be advantageous to this country, both in a financial, commercial, and political view, adding, that this seemed of all others the most proper time to make it, when the French were resolving to exclude our manufactures, and set up for themselves; for we made it unlikely that our manufacturers would go over to their assistance, by finding them new work at home, and took away much of the spur to French industry, by supplying them with our articles in a more perfect and finished state than they could hope at first to produce by their own efforts. He congratulated every friend to the happiness of mankind, on the permission that was now granted of the free exercise of the Protestant religion in France, which, he hoped, would tend to introduce a spirit of general toleration and good-will. He confessed, however, that the most pleasing view he had of the Treaty, was in the tendency which he hoped it would have to check those destructive contentions between the two countries, by making the preservation of an harmonious intercourse the mutual interest of both; not that we ought blindly to rush into their embraces as the right hon. gentleman had said; he would have us still watchful, but he would have us maintain the caution of jealousy, without the folly and extravagance of that passion. Much had been said on a former day, of forming alliances, of the balance of power, of its being the policy of this country always to set up itself in opposition to that state, whatever it might be, which was for the time the leading one in Europe. This principle, as far as it had been acted upon, had, he would allow, administered to our glory, and made us splendid in the page of history; but he wished the country would at length learn that important lesson, that the greatness and happiness of a people were not the same. Impressed with this truth,

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it was with pain he had heard the right hon. gentleman (Mr. Fox) appeal to the ambitious feelings of the House the preceding evening, though he confessed the power of his eloquence was such, that he found it necessary to keep this principle steadily in view, that he might not be seduced by it. The true policy of Great Britain was, by a strict attention to the internal resources, the morals, and manners of the people, to endeavour to make herself at once happy and respectable: we should attend to our navy, the true source of our strength, and of the best sort of strength—the defensive; foreign connexious would often lead us into quarrels, nor were they altogether so easy to be formed as negociators might flatter themselves; of this the right hon. gentleman himself might afford an example, who did not find the sanguine expectations could be realized, which he had excited in the instances of Holland and America;—and he might also be adduced as an instance, that alliances, or confederacies, or coalitions, or whatever they might be named, between great Powers, were not always productive of the good effects which had been hoped from them. But to be serious, if the right hon. gentleman's system had made us often reap the laurels of victory, yet had it not loaded us with 250 millions of debt? had it not laid us under the necessity of abridging of his comforts every cottager in the kingdom? and what were the feelings of the poor creature who, with his windows stopped up, with scarce food to eat, or a house to live in, by the miserable light of a candle he could scarce afford to burn, was to be compensated for all his distress, by reading over a speech of the right hon. gentleman, in which he was dignified by the honourable appellation of "the Adjuster of the Balance of Power, and Guardian of the Liberties of Europe?" Mr. Wilberforce concluded by observing, that this was not one of those questions on which gentlemen might suffer their personal predilections either for or against a minister, to operate in determining their vote; it was by far too important a one for motives like these to be attended to. They should have no weight with him; it was his firm conviction, that in supporting the measure, he was giving an unbiassed support to a proposition which was for the good and happiness of the country; and it gave him a particular pleasure to be able to say, that whilst he was acting in conformity with the dictates of his own conscience, he was voting agreeably to the general wishes of his constituents.

Mr. *Flood* denied having contradicted himself, and re-stated what his argument had been, in the particulars pointed out as contradictory. With regard to the manufacturers opinions, he had said, the evidence they had given on the Irish propositions was such as made it perfectly fair for him to take advantage of it, and to assume that the manufacturers did not approve of the Treaty. The hon. gentleman asserted, that the manufacturers did approve of it. What is that, said Mr. Flood, but the hon. gentleman's assertion? and it contradicts mine. The hon. gentleman therefore has contradicted me; but does it follow that I have contradicted myself? The hon. gentleman had complained of his holding a dialogue when there was neither of the parties present to answer him. He begged to know whose fault that was? He wanted to have the manufacturers at the bar to hear them deliver their opinions, and the hon. gentlemen would not let them come. For his part, he should have been peculiarly happy to have seen the gentlemen, because he had often known an eloquent member of parliament, in a fine speech, say that for a manufacturer, which he would not when present say for himself. With regard to the right hon. gentleman who had made the Treaty, he had not sent him to Paris, and had much rather have seen him in the House, as he knew of nothing so formidable about his abilities, as to make him at all afraid of coping with him. Mr. Flood paid Mr. Wilberforce some compliments, but begged that he would not be too prone to charge him with contradicting himself, and with errors and mistakes; and more especially when he put his country in contact with the charge which he thought proper to urge against him. The hon. gentleman (said Mr. Flood) talks as if this Treaty was to make man more moral, more religious, and more exemplary. Are we then to expect a cargo of missionaries from the Continent? But if it will increase the morality of the people, the religion of the country, the honesty of our tradesmen, I shall indeed say it is the best treaty that ever was negociated.

Mr. *Fox* rose to vindicate himself from the insinuations which Mr. Wilberforce had been pleased to throw out against him personally. With regard to what he had

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stated concerning the peace with America, he would give him the same answer on that subject which he had always done; and that would be a flat denial. With respect to the negociation with the Dutch, if there was any blame to be affixed to that measure, he was willing to take his share of it, though it had been done with the unanimous consent of his Majesty's council. That it failed he did not pretend to deny; and its failure, he verily believed was owing to the influence of France. That hon. gentleman had stated, in the meekness of his nature, that he dreamt not of power, nor did he wish to tread the paths of ambition; but immediately afterwards, he has a vision, which tells him that the navy of Great Britain must be kept up; and then he draws a very affecting picture of the distresses of poor cottagers groaning under the accumulated weight of taxes. This was, no doubt, a very ingenious mode of captivating the vulgar; but he would ask the hon. gentleman how the navy was to be supported without taxing the subject? or how the visions of the hon. gentleman could be realized without a great expense to the nation? But the hon. gentleman had the admirable talent of making attacks under the shield of modesty. Was this country, then, not in a situation to take a part in preserving the liberties of Europe? Was she so sunk in distress as to consider herself inadequate to the preservation of that to which she owed her existence and her rank among the nations of Europe? Did the hon. gentleman mean to hold that language to the world? He wished to know if that was the language meant to be maintained; he wished some person in authority would stand up and say so, because he could then meet it fairly. Would the Chancellor of the Exchequer declare, that we were no longer in a situation to hold the balance of power in Europe, and to be looked up to as the protector of its liberties? He should be glad to come at that point. As to the assertion, that a poor cottager was not to be talked to in that manner, he must maintain that he was; and notwithstanding the pressure of taxes under which the lower order of people in this country laboured, yet it was a comfort to hear that she was the Balancer of Power, and the Protector of the Liberties of Europe. That it was that enabled him to bear his poverty with cheerfulness, and to feel the satisfaction, amidst all his distress, of reflecting on the thought of his being one of the subjects of a free country, whose characteristic it was to balance the power of Europe. Shameful was the neglect which ministers had shown in the formation of alliances. Till that unhappy period when we were left without an ally, we had always fought successfully. From that, however, he did not mean to contend, that it was better to build our hopes on the strength of our alliances than on the strength of our navy. He was aware of the difficulty which attended negociations of that nature; but he asserted, that ministers were culpable in turning away with impatience from any object which they might have attained, had they pursued it with persevering firmness.—Mr. Fox severely answered that part of Mr. Wilberforce's speech, in which he charged him with having said, that he had a peace with America in his pocket.—The matter it alluded to, passed five years ago, and the hon. gentleman now brought it forward under a gross misrepresentation. He had never used the words, but had said there were those in Great Britain empowered to treat for peace. And the fact had turned out exactly as he had stated it.

Mr. *Dundas* said, there was scarcely a single argument relative to the situation in which this country had stood for many years back with respect to the other Powers, that he was not ready to adopt; but he must call upon the right hon. gentleman for an explanation in what manner those arguments could be brought to bear upon the present Treaty. He could not see what relation they had to it, being fully satisfied that there was nothing in the Treaty, which in the smallest degree tended to throw a difficulty either in the way of this country's taking any political part against France which she thought proper, or of entering into an alliance with any other Power. What was the Treaty but a measure calculated to enable her to circulate the manufactures of her own artizans in a ten times greater degree than ever she could do heretofore, by opening to her one of the most extensive markets in the world. And in doing so, where was the danger? Her own market she was sure of, and whatever might be said of the probability of its being wrested out of her hands by France having the power of importing her manufactures, the high protecting duties rendered such a matter impracticable. Mr. Dundas declared, that the proportion in which the commerce of

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the country would be increased was beyond all conception: thus, instead of the British capital being, as the hon. member had stated on Monday, conveyed to France, and there lodged, to the great inconvenience of Great Britain in case of a sudden war, it would be turned much oftener than before, and the profits would be multiplied and increased in proportion. The hon. gentleman who had started the difficulty which he had just mentioned, had in the course of his speech objected two different ways, and he wished him therefore to reconcile the contradiction. He had talked of the British capital being conveyed into French hands in one part of his speech, and of the British glass manufactory and cotton manufactory being nearly ruined in consequence of the duties upon the importation of those articles from France being too low to protect our manufactories. Mr. Dundas contended, that it was wise in this country during a time of peace to take advantage of the circumstance, and by extending our commerce to fill the coffers of the state. He commended the good sense of Mr. Grenville's argument on Monday night, when that gentleman had recommended an alliance with her own manufacturers as the best alliance which Great Britain could form, and that most likely to enable her to be ready for war, whenever war should be inevitable. He should not be afraid of saying to a French minister, "If you want to make war with this country, begin when you please, and where you please; if in the East, you will find an army ready and a full treasury; the same in the West, and the same in Europe." In fact, the point Great Britain should now aim at, should be to reduce her debt and fill her coffers; she would then be able to subsidize allies, and sustain the charge of every needful preparation.

Mr. *Powys* rose to explain the points of his former speech, which had been animadverted upon by Mr. Dundas. He said, he had risen at so late an hour on Monday, that he had barely stated the outlines of the matters which struck him upon the Treaty. Mr. Powys then recapitulated what he had said relative to the injury which he feared the glass and cotton manufactories would sustain, and his doubt whether a great part of the British capital would not be transferred over to France, and upon a sudden emergency be felt as a material inconvenience by this country. In answer to Mr. Wilberforce's address to him as a country gentleman, Mr. Powys said, the country gentleman who should govern his public conduct by mere considerations of private interest, was a miserable animal indeed. No impression arising from the circumstance of the land-tax being 4*s.* in the pound, or even more, should induce him to vote, upon a matter of great public importance, differently from what he conscientiously believed would be most for the good of the country.

Mr. *Drake* confessed, that he felt himself disposed on all occasions to give his support to the executive government, when he supposed that their intentions were good. On the present occasion he was convinced that they acted from the purest patriotism; and that if in the course of the investigation of the business they should find it against the interests of the country to enter into a commercial alliance with France, they would recede from the proposition. He concluded with exclaiming, "Blessed are the peace-makers and the peace-preservers."

Mr. Alderman *Watson* rose to say a few words upon the Treaty, and principally to call the attention of the committee to the state of our trade. In 1677, we had but one vessel with lingering sails, a single solitary bottom, that went to the Baltic; in 1786 we had several hundred sail, with a vast number to Greenland. He commented on this difference, and argued that it proved in how flourishing a state the trade of this country now was, and that it at the same time showed, how cautious we should be in taking any step which might affect it. He suggested that France and America were in connexion, and that the latter sent her produce to France and was supported from France; France, therefore, by the Commercial Treaty with Great Britain, might enable herself to fulfill all her American commissions at the expense of British credit. He declared, that this was a serious consideration, and merited more than common attention.

Mr. *Hussey* recommended the worthy alderman's speech to the serious attention of the Chancellor of the Exchequer. He should vote against the Treaty, because he feared that it would produce mischief to the country.

Mr. *Fox* observed, that the circumstance which was very natural to happen, had arisen from the right hon. the Chancellor of the Exchequer having so properly declined to make any speech; and the de-

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bate had proceeded solely on the general merits of the Treaty, without a single word having been said to the particular question before the committee. He would therefore move an amendment which would go to the question immediately; and that was, to add, as part of the resolution, "that it was the opinion of the committee that the duties on the importation of Portugal wines should at the same time be lowered one-third." This would be an effectual means of preserving the Methuen Treaty in full force, so far as it related to our part of the obligation, and would enable Government more advantageously to negociate the pending Treaty with Portugal. The proposition was so self-evident, that he saw not any ground on which it was objectionable; but he was prepared to debate it either then, or, as it was so late an hour, the next day, if the committee thought proper. He added, that as the committee had not regularly before them any information that a treaty was pending, or what state it was in, it the more became them to convince Portugal, and all Europe, that their wish was to continue the Methuen Treaty.

Mr. *Pitt* expressed his doubts, whether, in point of order, when they were considering of a Commercial Treaty with France, and proceeding to vote resolutions, signifying their intention to fulfil the conditions of the Treaty and carry them into execution, they could take cognizance of a resolution respecting the wines of Portugal; but, putting the point of order out of the question, he did not think that a proper moment to take up the consideration of the Portugal wines. He had before told the House that a negociation for the redress of grievances was pending with Portugal, and that negociation was, he hoped, in a fair way to be soon brought to a conclusion. As soon as news arrived of its being concluded, he should propose the necessary resolution to the House; but supposing that the negociation was not brought to an end before the Bill passed, that would be necessary to carry the Commercial Treaty with France into execution, a circumstance by no means impossible. In that case he should think it his duty to propose to lower the duties on Portugal wines for such a period, as might reasonably be thought sufficient for the negociation with the Court of Lisbon to be brought to a termination in; but if, what he trusted and hoped would not happen, the Court of Lisbon would not redress the grievances complained of, and refused to continue to preserve the spirit of the Methuen Treaty, in that case he should propose to Parliament to think of putting the wines of Portugal upon equal duties with French wines. Having declared this, he would leave it to the committee to decide whether the amendment should be debated or not.

Mr. *Fox* denied that the objection in point of order could hold out a moment. The Treaty expressly mentioned the reserve in favour of Portugal wines, and consequently nothing could be more strictly regular than to notice them at the same time that the resolution relative to the wines of France was voted. Mr. Fox took notice of the candid explanation which the right hon. gentleman had given of his intentions, but nevertheless thought it ought to be fully discussed; and as it was so late an hour, he would propose that the debate be adjourned.

Mr. *Grenville* said, that the right hon. gentleman had discussed his motion in what he had remarked concerning it; unnecessary, therefore, was it, after the explanation which his right hon. friend had given, to proceed any farther upon it for the present.

Mr. *Fox* ridiculed this idea, and observed, that he had only given his reasons that an adjournment was necessary, as the amendment which he had to propose was likely to occasion some debate. If the question of adjournment should be opposed, he should consider it as a violation of decorum, and a mark of disrespect to his side of the House.

The committee divided on the question of adjournment: Yeas, 76; Noes, 91. The original resolution was then put and carried.

Feb. 16. On the order of the day being read, for the House to resolve itself into a committee, to take into further consideration the Treaty of Navigation and Commerce with France,

Mr. *Fox* rose and observed, that he was now resolved to submit to the consideration of the House the question which, on the preceding evening, he had been prevented from introducing, in a manner much more extraordinary than any interruption which, during the eighteen years of his having enjoyed a seat in Parliament, he recollected to have experienced. If he might take the liberty of pressing his own opinion upon the House, he

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should unequivocally declare, that with this particularly important question their reputation and their dignity were closely interwoven. The question was at the same time so intimately connected with that part of the Treaty with France then under deliberation, that it was impossible to pass it by, and not to come to its consideration, without manifesting a disregard to Portugal little short of a direct affront. He had been much blamed in the debate of the preceding day, and described as a person peculiarly fond of talking of alliances with foreign courts, of treaties, and of negociations. That he was addicted to fall into that vein of debate, unless when it was necessarily and unavoidably connected with his subject, he was not himself aware, nor did he believe that this was really the fact; but how subjects, in which negociations, treaties, and alliances with foreign courts were involved, and with which those matters were inseparably connected, could be properly, or rather could be at all discussed without a reference to those topics, he was at a loss to conjecture, unless that House were to take the advice given by an hon. gentleman, and no longer to consider themselves as politicians. That advice not happening to suit with his notion of the duty of a member of parliament, he, for one, must be excused if he continued to think, that it became him, and every gentleman entitled to a seat within those walls, to consider himself as a politician, and to direct his opinions accordingly. He had thought it necessary to premise thus much, because he was afraid that he must now again incur the censure which had been cast on him the day before, and again make mention of those topics which it had been said he was too much inclined to talk upon.

The subject to which he meant to draw the attention of the House was the reserve made in the 7th Article of the Treaty with France in favour of our connexion with Portugal under the Methuen Treaty. The committee had the preceding evening come to a resolution to lower the duties on the wines of France on importation into this country: it appeared to him, then, to be indispensably necessary, that the second part of that resolution should be a resolution to lower the wines of Portugal to that reduction at which they were intended to stand, provided the Methuen Treaty was to continue, and things to go on as they had done from the time of concluding that Treaty in the year 1703. Mr. Fox directed all his arguments to prove the indispensable necessity that he had stated, and to convince the House, that if they did not come to the resolution then, they indicated a negligence respecting the continuance of the connexion of the two kingdoms under the Methuen Treaty, and an indifference to the commercial benefit thence derived reciprocally to both countries. He professed himself aware that it had been contended that the Methuen Treaty bound Portugal only, and that it was optional in Great Britain to take the wines of Portugal or not. This he knew others contradicted, and maintained that we were bound to take the wines of Portugal on low duties, as much as Portugal was bound to admit our woollen cloths. But in whichever point of view it was considered, the advantages of the Methuen Treaty had been so great, that we should act in the most unwise and impolitic manner, if we did not take every step on our part to convince Portugal that we were desirous of continuing the connexion. He had never been fond of that mode of arguing which deemed exports a gain and imports a loss; but admitting for the sake of argument that this was the true way of judging in the case of Portugal, the argument so managed was strong in favour of our adhering to the Methuen Treaty. Our imports from Portugal consisted of Brazil cotton, of oil, of dying drugs, of salt, and of other articles without which we could not possibly contrive to go on as a commercial country; if, therefore, imports were a loss, they were a loss in this particular that we could not possibly do without sustaining. If our connexion with Portugal was put a stop to, we must go and purchase our loss at another market; for the articles of our imports from Portugal were what we must at any rate procure. On the other hand, our export trade to Portugal was a most valuable one: it amounted to near a million annually, and was otherwise precious to us, because the commodities now exported to Portugal were saleable in no other market. The Portuguese, he understood, took from us the whole produce of a woollen manufacture in Yorkshire. He knew not the name of the cloths, but it was an undeniable fact, that the consumption of Portugal was equal to the whole produce of the manufactory in question, and that the woollens were saleable no where else.

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This, then, alone was an important consideration; but, added to this, Portugal annually bought a very considerable quantity of salt fish—another commodity for the sale of which we could find no other market. Formerly, there was another very considerable export, an export of corn to Portugal; but that had lately dwindled to nothing, which he imputed to our increased home consumption.

He was aware, that the salt fish carried to Portugal was conveyed thither not under any agreement or stipulation in the Methuen Treaty, but under the conditions of anterior treaties; and therefore it might be fair to suppose, that if the Methuen Treaty was put an end to, we still had a right to expect that the faith of anterior treaties should be complied with. He entered here, however, into a series of arguments, to show the possibility of the putting an end to the Methuen Treaty being considered by Portugal as a separation *in toto* from all connexion with this country, taking care to guard this doctrine by an explicit declaration, that Portugal had derived such advantages from her connexion with Great Britain, and must necessarily be so serious a loser, by giving up all pretence to her protection, that if, by a lamentable state of perverseness, or the influence of bad advice, she should be induced to break all connexion with us, and risk her safety in the best bargain she could make with her neighbouring continential powers, she would do the most rash, most unadvised, and most absurd act that ever a country, situated like Portugal, could commit. At the same time it was to be remembered, that greatly as the balance of advantage derived from the connexion under the Methuen Treaty, was in favour of Portugal, Great Britain would feel no inconsiderable inconvenience from the loss even of such an ally as Portugal. What our commercial disadvantage would be, he had stated in enumerating the species, and mentioning the value of our exports to Portugal. Our political disadvantage might also be serious. In case of a war with the House of Bourbon, we should feel—perhaps severely feel—the want of some friendly port from Gottenburgh, now a French port, down to Gibraltar. These were not ideal inconveniences; and, rash as it would be in Portugal to put us into such a situation, we could not but thence lament the loss of such an ally.

Again must he repeat, and press most earnestly upon the consideration of the House, that all the too sanguine supporters of the Treaty should consider the relative situation of England and Portugal. For near a century back, an alliance of mutual, though he would not say of equal convenience, had subsisted between them. The connexion, he was ready to acknowledge, was more necessary to Portugal than it was to England, considered in a political point of view. She allowed us great commercial advantages in return for protection. Such was the condition, and such the politics of the European potentates, that the weaker states must court the alliance of the more powerful. Now, was it not highly probable, that our conduct might induce the Portuguese to reflect that they were near neighbours to Spain, and that they were no longer natural enemies; that nature intended them to supply each other's wants, and to exchange commodities for their reciprocal benefit? This, at least, might as well be said of Portugal and Spain, as of France and England; and might induce Portugal blindly to throw herself into the arms of Spain, and to add her balance to the already preponderating weight of the House of Bourbon. Thus should we not only lose the benefits we might derive from an alliance with Portugal, but have her in the scale against us. Nothing could more tend to exasperate, and move her to act in this manner, than the present conduct of ministers. The pride and dignity of Portugal, as an independent kingdom, had been wounded by them. No person in this House was more an advocate for acting with vigour towards foreign states than he was; but he confessed that he thought this rigid tone might be assumed with more honour and justice towards other states than towards Portugal. Not long ago we were blamed by all Europe for our insolence; and he was sorry to find, that we should not be acquitted of the exercise of that vice. If we thought proper to retain our stile of haughtiness, it ought to be to our old rivals and equals in power, and not to a subordinate, and in respect to us a very defenceless people. That was far from being the conduct that a brave and generous nation ought to adopt.

Mr. Fox contended strenuously, that if the House did not instruct the committee to come to an immediate resolution, that the duties on the wines of Portugal should be lowered one third, they, in fact, broke the Methuen Treaty, or at least departed

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from its spirit and meaning; intimated to Portugal a ground of doubt as to their intention of not ultimately complying with the Methuen Treaty, and in fact, for the moment, paid France a compliment at the expense of Portugal, by holding it out to all the world, that during the course of their proceedings France was preferred, and her interests first attended to. Suppose, said Mr. Fox, the Queen of Portugal were to publish an edict, prohibiting the importation of our woollens into her dominions, would this country think that a handsome thing towards them, or that it dignified their ground for renewing a negociation? In like manner let them feel for Portugal: if the Methuen Treaty was not recognized without delay, it was virtually broken, because the duties on the wines of Portugal, as far as the ultimate intention of the Legislature was to be collected from a resolution of the House of Commons, appeared to stand on the same footing as the duties on the wines of France; and if they actually were left to stand on that footing, every gentleman knew it would be a direct violation of the Methuen Treaty. Great, indeed, was the difference between recognizing the conditions of the Methuen Treaty primarily and secondarily, or in other words, by a resolution antecedent to the sending the Bill to be brought in upon the resolutions come to in the committee, up to the House of Lords, or by a resolution afterwards. But what, he contended, was the strongest argument to induce the House to act in the manner he had advised, was their not having before them in the parliamentary form, any grounds whatever to lead to suspend an act expressive of readiness on their part to manifest their desire to comply with the Methuen Treaty. They had, indeed, heard of negociations pending with Portugal, and they had heard of grievances complained of; but they knew not the grievances, nor the situation and circumstances of the pending negociations. They knew not that the complaints of grievance were even justly founded, and therefore as a House of Parliament they had no grounds whatever to induce them to act otherwise than as if no negociation whatever was pending, nor any complaints of grievances existing. Mr. Fox concluded with moving, "That it be an instruction to the said committee, that they do, in the first place, proceed to consider of reducing the duties upon wines directly imported from Portugal into Great Britain, so that such wines may pay no higher duties than two thirds of the duties to be imposed upon wines imported directly from France."

Sir *Grey Cooper* remarked, that the basis of the Treaty in 1703 was the taking off a prohibition of the woollen goods of Great Britain, which had subsisted for 19 years. The Queen signified by her Minister, Mr. Methuen, that it would be very agreeable to her if the woollen cloths and the rest of the woollen manufactures of Britain might be admitted into Portugal. Mr. Methuen had the address and the good fortune to prevail on Portugal to comply with this request. The King of Portugal engaged to admit for ever hereafter into Portugal the woollen cloths and the rest of the woollen manufactures of Britain, as was accustomed until they were prohibited by the laws—upon this express condition, that at no time, whether there be peace or war between Britain and France, any thing more should be demanded for the wines of Portugal by the name of custom or duty when imported into Britain, than what should be demanded for the like quantity or measure of French, deducting or abating one-third part of the custom or duty. This was a boon given by England to Portugal, for the most valuable consideration of the admission of our woollens. There were two conditions; one on the part of Portugal, that she would for ever admit our woollen manufactures "non aliter quam fieri solebat antequam interdicerentur." This contract had redounded to the immense advantage of this kingdom, and had occasioned a greater accretion of wealth than we owed to any other treaty; by the encouragement and extension of our staple manufacture, by the augmentation of the capital of the value of the lands, and the increase of the shipping and seamen, which was paramount to all other considerations. The exports to Portugal amounted in 1783, to 559,000*l.*; in 1784, to 471,000*l.*; in 1785, to 770,000*l.*; and in 1786, to 599,000*l.* The imports for the same periods amounted, in 1783, to 322,000*l.*; in 1784, to 370,000*l.*; in 1785, to 428,000*l.*; in 1786, to 469,000*l.*

He observed, that this great Treaty was at that moment in much peril and jeopardy. The condition on our part was on the point of being broken: it stood on the edge of a precipice; but the right hon. gentleman said, that we need not be alarmed, as there was a power reserved

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to save the breach of the condition; but that it was not consistent with good policy that it should be now executed, because certain complaints of infractions of the condition on the part of Portugal were in agitation, and fresh remonstrances had been lately made to the Court of Lisbon on those grievances. In a former debate, he had conjured the right hon. gentleman to execute the power now, and to let the reduction of the Portugal wine go *pari passu* with the boon given to French wine; and that commissaries be appointed to consider, and, if possible, to settle the grievances and complaints of the merchants, within a time to be limited; and it seemed that this conduct was the wisest, for this plain reason, that if the Court of Portugal construed this reduction of the duty on French wines to the level with the duty now demanded on those of Portugal to be a breach of the condition on our part, or such a derogation from the true spirit of it as justified her in prohibiting the woollens of Great Britain, there was an end of the Methuen Treaty, and all the negociation about redress of grievances fell to the ground, until we could again obtain the consent of Portugal to renew it, which might not, perhaps, be brought about on terms so advantageous as we had at present. He doubted much, if this should unfortunately happen, whether we should find any thing in the French Treaty to replace their loss. This had happened before. In the first year of the reign of James 2, the prohibition of French goods, enacted in 1678, expired; and in one of the first Acts of the first session a duty of 8*l.* per ton was laid on French wine, and 12*l.* per ton on Spanish and all other wines. When the trade was opened with France, and that Act passed, the import of Portugal wines fell from 12,000 to 300, and the French wines increased from nothing to 13,000. This appeared by an account presented to the House of Commons from the Inspector-general's office in 1713. That unfortunate Prince was, during his whole reign, directed, as it were, by a spirit of dementation, and submitted to be the slave of France, that he might ruin the religion and constitution of England. Under all these circumstances he could not avoid forming a most anxious wish that the committee would not withhold their support from this necessary proposition; and the rather, because its manifest tendency was to place the manufacturers, much interested in the fate of this Treaty, upon a secure footing, and yet leave the stipulations in the French Treaty totally unprejudiced.

Mr. *Pitt* observed, that he should be able to put into a small compass the only reasons which he felt it incumbent on him to assign for meeting the motion with a direct negative. In the first place, he would lay out of the consideration all that which the right hon. gentleman had said relative to the pretended connexion between what might be proper to do with respect to Portugal, and the resolution which the committee had already voted concerning the future rate of duties on the wines of France; the two considerations being totally distinct and separate. To the next division of the right hon. gentleman's arguments, he was ready to subscribe; but, in doing that, he meant to be understood as referring to the conclusion only; as to the premises, he laid in his claim to differ: for, although he had no manner of objection to admit that the trade of Great Britain with Portugal was valuable, and a matter deserving of very serious attention, he was by no means willing to allow that the right hon. gentleman had been correct in his statement of the value of that commerce. On the contrary, so far from believing it to be a fair account of the matter, he had every reason to imagine that it was grossly exaggerated. Here he would just mention, that although he thought the Methuen Treaty, a treaty the existence of which it was every way desirable to have continued; yet, if it should happen (as he hoped and trusted it would not) that Portugal broke with us entirely as to that Treaty, a great part of our trade with Portugal depended on agreements and treaties entered into anterior to the Methuen Treaty. Among other articles of our trade with Portugal, the salt fish trade was of this description; and surely gentlemen would not contend, if, unfortunately, Great Britain and Portugal could not agree as to a continuance of the Methuen Treaty, that therefore Portugal was absolved from a due performance of acts of stipulation concluded many years antecedent to the Methuen Treaty. He could not well account for the right hon. gentleman's having, in so extraordinary a way, and under such peculiar circumstances as the country stood in with Portugal at this time, touched upon one part of the subject in the manner he had done. That he did it with a view to encourage Por-

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tugal to imagine there was any description of persons in this country who were of opinion that she would be justified in a gross violation of her natural faith, he did not believe, nor would he suggest an imputation of so unbecoming a nature: but whether he had meant to delude the people of England into an idea that Great Britain was more obliged to Portugal, than Portugal was obliged to Great Britain (the very reverse of which was notoriously the fact), or whether he had used it merely as a sophistry for the purpose of the moment, he could not decide; but a more palpable mis-statement had scarcely ever been given. Mr. Pitt next remarked on the right hon. gentleman's bold declaration, that the House had no grounds before them upon which they could rest any thing like a knowledge that a negociation was pending with the Court of Portugal upon a complaint of grievances which that country had a right to expect to see redressed. Was it possible that such an argument could be seriously maintained, after he had more than once stated to the House in express terms, that such negociation was going on, and that the grievances, which surely no man would say, had never been heard of before, were of great weight and seriousness, and such as no government could suffer to remain unnoticed, while it was conscious that the Methuen Treaty was punctually complied with on our part? Far was he from suspecting that the right hon. gentleman meant any thing personal to him, or could design in that sense to insinuate so foul a suspicion; but, parliamentarily speaking, he had a right to claim so much confidence on behalf of the Executive Government, when he asserted, in his place, that a negociation was going on with the Court of Lisbon, from a complaint of a non-compliance with the Methuen Treaty, and that he had every reason to believe it would be happily and speedily terminated. Mr. Pitt now pointed out the happy circumstance of our constitution which gave the negociation and conclusion of treaties to the prerogative of the Crown, and the revision, judgment, and execution of them to the privileges of the people. He asked whether it was right, in the midst of a negociation so circumstanced, for a House of Commons to interfere by a resolution tending to embarrass and delay the mode of negociation, which the Executive Power, who had all the responsibility, had chosen for themselves? He had every reason to expect the negociation with Portugal would prove successful; if, however, it should fail, in either case he would come to the House, and in one of the two situations would move a resolution to lower the duties on Portugal wines one-third below the duties on French wines; in the other, he would lay before the House the grounds on which Administration considered the Court of Lisbon as no longer willing to comply with the Methuen Treaty, and their reasons for moving to alter the situation of the two countries as far as regarded the import duties on Portugal wines. The only ground on which the right hon. mover of the instruction had argued, was a fallacy, inasmuch as the resolution relative to the future duties to be paid on the importation of the wines of Frrance, and the future duties to be paid on the importation of the wines of Portugal, were distinct and separate considerations, and not implicated concerns. Above all things, he should contend, that the motion held out to Portugal an active measure in her favour, which it might ultimately be right to vote, but which, if voted before the Bill, to be grounded on the resolutions of the committee, must be premature.

Mr. *Fox* said, he would not take the sense of the House, as the right hon. gentleman had put the matter upon such an issue. The right hon. gentleman had rested on assertion, not argument. The right hon. gentleman was responsible, not for the success of the measure, as that no man could answer for, but for any unfortunate turn which the Treaty might take in consequence of the mode of negociation which he, as a minister, had thought proper to choose. Mr. Fox denied that his motion would have embarrassed Government; on the contrary, he contended that it would have been a good ground for Government to have acted upon. He by no means consented to admit that his motion was an active measure in favour of Portugal, and beyond what she had a just right to expect. It was exactly the reverse; and to prove the argument, he would again put the case, that if the Queen of Portugal should have issued an edict prohibiting the export of our woollens, he should have thought that she had acted unfairly by Great Britain. His motion, he insisted upon it, was an act of bare justice to Portugal.

At length the motion was put, and negatived without a division. The House

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then resolved itself into a committee upon the consideration of that part of his Majesty's Speech which referred to the Treaty of Navigation and Commerce with France.

Mr. *Pitt* rose with a string of resolutions in his hand, each referring to a separate species of goods and merchandize stated in the tariff, contained in the sixth article of the Treaty, and began with moving the resolution relative to vinegars, which passed without objection. The next resolution, referring to brandies, occasioned a short conversation.

Mr. *Fox* desired to know, whether at the time that the duties on brandies were meant to be reduced, it was not intended to accompany the alteration with a reduction in the duties on rums?

Mr. *Pitt* answered that the resolution declared it to be the opinion of the committee, that the duties on brandies should not exceed 7*s.* per gallon, and he had it in contemplation to make a small reduction (3*d.* per gallon) in the present duties on rums, which would bring the duties on the two articles to bear exactly the same relation to each other in point of proportion, that they bore in 1778. Mr. Pitt explained what other duties had been since imposed; and said, he intended, at an early day, to propose a still greater reduction on brandies, and other spirits, from certain considerations of revenue, and with a view to extend the system so successfully commenced three years since, to the great prevention and abolition of smuggling.

After a short conversation, the resolution was agreed to. The resolution respecting the duty of 30 per cent. upon the export of beer occasioned some conversation.

Sir M. W. Ridley feared the resolution would give the French beer an advantage over the English. Mr. Pitt assigned his reasons why it would not.

Mr. *Whitbread* informed the House, that the Treaty respecting the article of beer was in favour of England; for the sixth article says, beer shall pay in each country 30 per cent. *ad valorem*, and that the present existing duties in each country shall be added to the 30 per cent. which were very high in England, and he had been informed Mr. Eden said were very low in France; so much so, that it was proposed to Mr. Eden to take no account of them on either part, yet that he thought could not be complied with, as all malt exported from England was duty free, and in some cases obtained a bounty also, and this brought us nearer to an equality; yet upon the whole he thought the terms in our favour, and that we might be content. He farther observed, that as the internal duties in France were not particularly known, which he wished they had been, that difficulty was in a great measure removed by the clause declaring that each country shall be governed by the very same duties which existed at the time when the Treaty commenced.

The beer resolution was agreed to. The resolution relative to the import duty of 12 per cent. on cottons was no sooner read, than

Mr. *Fox* rose, and expressed his doubt, whether the cotton manufactory would not be most materially injured. He rested his apprehensions on the uniform information of every manufacturer he had consulted; on the evidence of those very respectable characters, Messrs. Walker and Richardson, at the time when the Irish propositions were in agitation, and on the unanswerable arguments of Mr. Flood, grounded on that evidence; arguments which every man in that House must have been happy to have heard.

Sir *Grey Cooper* observed, that the circumstance of France having lately laid an additional duty on cotton wool was an ill omen of her friendship towards Great Britain. She had now raised the duty 5*d.* per pound on her cotton wool; she might hereafter raise it to 10*d.*, and so increase it till it amounted to a prohibition.

Mr. *W. W. Grenville* contended, that France was not the manufacturing country, which she had been represented; and that such was our avowed superiority in respect to the ingenuity and industry of our manufacturers, that he had no sort of doubt, but that as soon as our manufacture found its way to the French market, the manufacture of France would sink before it. Mr. Grenville mentioned the short duration of the Treaty, declaring, that without any other argument, and there were many at hand to support it, this alone was sufficient to show that there was no danger of our manufacturers emigrating to France and settling there. He also contended against the manufacturers fears as to the danger of there occurring a deficiency of supply of cotton wool; in spite of all the restrictions laid upon the export of that raw material, it had hitherto found its way to our market in a sufficient quantity, and when the Treaty

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was ratified, and the import legalized, it could not fail to flow in much greater quantities than ever.

The resolution was agreed to.

Mr. *Sheridan* asked what resolution the Chancellor of the Exchequer meant to move respecting the water guard of our coasts, as he conceived that the Hovering Act was given up by the Treaty.

Mr. *Pitt* answered, that he had no resolution to move on that subject, as there was not a word in the Treaty which in any sort made it necessary to alter the existing laws for the security of our coasts, either from the approach of smuggling vessels or otherwise, nor was any the smallest alteration intended.

The remaining resolutions were then agreed to.

Feb. 19. Mr. Beaufoy reported from the committee of the whole House, to whom it was referred, to consider of so much of his Majesty's Speech to both Houses upon the 23rd of January last, as relates to the Treaty of Navigation and Commerce between his Majesty and the Most Christian King, the resolutions which the committee had directed him to report to the House; which he read in his place, and afterwards delivered in at the table, where the same was read a first time. The Speaker put the question, "That this Report be now read a second time," when

Mr. *Sheridan* rose to state a few particulars, respecting which he thought it highly necessary that the Chancellor of the Exchequer should give satisfactory answers previous to any final decision concerning the resolutions contained in the report which had been just read. What first he wished to be satisfied about, was the consolidation of the duties on the customs, which, if he had understood the right hon. gentleman correctly, he meant to mix and blend with the business of the Commercial Treaty. If this were really the right hon. gentleman's intention, it would surely be highly improper for the House to give their vote for the second reading of the report, before they were in possession of the additions which were meant to be made to it, and much of addition he conceived there would be, as there were, he supposed, several other resolutions absolutely necessary to be submitted to a committee of the whole House on the other parts of the Treaty; for those contained in the report were confined merely to the articles stated in the tariff. Another matter which he must again mention, was that proposition which appeared to him to be an indispensable and incontrovertible one, viz. that a new commercial arrangement with Ireland must be set on foot as a consequence of the Commercial Treaty with France. The right hon. gentleman had given them to understand that he had no objection to hear of the Irish propositions: whether that was the fact or not, Mr. Sheridan said, he was persuaded that when the right hon. gentleman first introduced the business of the Commercial Treaty, the Irish propositions had been upon his mind throughout the whole of that long speech. Certain he was, that some arrangement between Ireland and England must take place in consequence of the present Commercial Treaty; because, after the right hon. gentleman had himself stated with a proper disdain of the idea which the Court of Portugal took up respecting Ireland, (with regard to her not being included in the Methuen Treaty, that she ought to be considered within the spirit and meaning of that Treaty; and that it was a main part of the negociation now on foot with the Court of Lisbon) it was scarcely possible to suppose that the right hon. gentleman had himself negociated a treaty with France, without having meant that Ireland should have the benefit of the Treaty, because that would have been to have excluded Ireland from the benefit of the French Treaty, exactly in the same manner as the Court of Lisbon had excluded Ireland from the entire benefit of the Methuen Treaty. The idea of giving France privileges and advantages in Great Britain, which Ireland could not claim, was so monstrous and absurd, that he could not entertain it as possible to have been in the right hon. gentleman's intention. Another material point required some more explanation than it had received, and that was, whether or not the Hovering Act was not affected, and its provisions done away, by the 25th article of the Treaty? A right hon. gentleman had said, that it was not at all affected by the present Treaty, but he had accompanied the assertion with no argument whatever.

Mr. *Pitt* observed, that as to the Hovering Act, and the idea that its operation as a check on smuggling was to be suspended, the answer that had been given to that question was fully sufficient. It was by no means the intention of the

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parties that those salutary checks against illicit trade, contained in the Hovering Act, should be done away or weakened; on the contrary, it was the wish of each of the monarchs to prevent, as much as possible, the continuance of any such practices between both kingdoms. With respect to the proceedings intended to be followed in the business on concluding the Treaty in that House, there was nothing more necessary for them to do than to agree to the several resolutions contained in the report, and which only went to a confirmation of the tariff. The hon. gentleman had inquired whether it was in contemplation to frame any new arrangements of a commercial nature with Ireland, and to make such arrangements a part of the system now to be adopted. But as that was in a great measure to depend on the disposition and inclination of the sister kingdom, and as it was in all respects to be considered in the nature of a new and totally distinct treaty, it was a subject which, on the present occasion, he thought it highly improper to discuss.

Mr. *Grenville* expressed his persuasion that the Hovering Act was not in the smallest degree affected. He explained the meaning of the 25th article of the Treaty, and charged Mr. Sheridan with having misconceived its meaning.

Mr. *Sheridan* said, that the explanation had not given him the least satisfaction. He was a little amazed also at the silence of the right hon. gentleman himself, who, he thought, would have deigned on questions of so much importance to have given the House immediate satisfaction. He thought it impossible that so monstrous a proposition as the giving greater privileges and advantages to France, in the home market of Great Britain, than Ireland either enjoyed, or could claim, was intended; but he could not see how Ireland could be said to be entitled to all the advantages of the present Treaty, without its having been so stipulated in the Treaty. He animadverted on the terms of the Treaty, and contended that Ireland was no where mentioned, excepting only as to her linens in the sixth article. He termed the Treaty a most incorrect production, and lamented the absence of the right hon. negociator (Mr. Eden) as he should have been glad to have heard from him the meaning which he had in view where he had not expressed it clearly. The Treaty was so directly in the teeth of the evidence given by the manufacturers at the bar of the House, when the Irish propositions were under consideration, that he presumed when the negociator of the Treaty returned to his duty in that House, he would publicly declare his conviction of the error of almost every one of the opinions which he had maintained on that memorable occasion.

Mr. *Pitt* observed, that Ireland was undoubtedly entitled to all the benefits of the French Treaty, but it was entirely at her own option, whether she should choose to avail herself of those advantages; for it was only to be done by her passing such laws as should put the tariff on the same footing in that country, as it was stipulated should be done in this. Had the adoption of the Treaty by Ireland been a stipulation necessary to be performed before it could be finally concluded on by this country, then this country would have been deprived of all the benefits resulting from it in the event of Ireland's refusal. As to the objection of the hon. gentleman, that there was no stipulation that Ireland should reduce the duties on brandy, and that of course she was not to be entitled to the equivalent advantage consequent on such reduction, that, he said, was the most unfortunate objection that could possibly have been made, and proceeded from a perfect misconception of the subject. It was not a stipulation that the duty on brandy should amount to 7*s.* a gallon, for such a stipulation on the part of France would be highly absurd; but it was a stipulation that it should not exceed that sum. Now, the fact was, that at present the duty on brandy in Ireland did not amount to near 7*s.*, and therefore to couple the stipulation relative to the duty on brandy in Ireland with that in England would be perfectly ridiculous; for in England the stipulation was, that being now at 9*s.*, the duty should be reduced to 7*s.* at the utmost; and would the hon. gentleman expect that a stipulation should be made for Ireland to make a reduction on her duty from the smaller sum already paid them, to the greater, which was to be paid in England? Having put the absurdity of such a proposition in the most striking point of view, he proceeded to show how the article of brandy was to be affected in Ireland, should that country adopt the Treaty, which was, that it should there be stipulated that the brandy of France should henceforward be admitted to the market in Ireland on the same terms as from the most favoured nation.

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Mr. *Flood* said, that he could assure the House, that he felt no extreme anxiety for the obtainment of any benefits for Ireland through the medium of a Treaty, to which he had so many objections on the ground of its being disadvantageous to Great Britain. He had on a former day stated, that if the sentiments of the manufacturers remained unaltered, they could not but be adverse to a Treaty with France, founded on principles so transcendently more injurious to their interests, than the principles of the former Treaty with Ireland. Nothing could be more self-evident than that if the reasoning of the manufacturers had been right on that occasion, and their apprehensions had been justifiable, the same style of reasoning would apply more forcibly on the present occasion, and their apprehensions would be still more justifiable. With regard to the Court of France understanding that Ireland was implied and comprehended in the present Treaty, although it was not so declared in express words in any part of the Treaty, he asked what security had Ireland for her share of the advantages or privileges which the Treaty held out to Great Britain, if either privileges or advantages were likely to arise from it, any more than she had for the Court of Lisbon's extending to her the advantages of the Methuen Treaty, which it was well known she had refused to suffer Ireland to participate, in violation of the spirit and meaning of that Treaty; and for which breach of Treaty on the part of Portugal, although it had been five years in negociation, no redress had been obtained for Ireland. Mr. Flood stated his conviction, that the Commercial Treaty was neither likely to be a benefit to Great Britain nor Ireland, and he thought a stronger proof of its objectionable invalidity could not be stated to the friends of Ireland (and every honest Briton must be the friend of Ireland, because her interests were so deeply interwoven with the interests of Great Britain, that they were inseparable considerations), than the extraordinary position in which the Commercial Treaty would place the two countries of France and Ireland, by entitling France to commercial privileges and advantages in Great Britain to which Ireland was not entitled, and by entitling Ireland to greater privileges and advantages in France, than she could obtain in Great Britain.

Mr. *W. W. Grenville* rose with some degree of warmth to declare, that Great Britain had two years ago made a liberal offer to Ireland, which the Parliament of that misled and infatuated people had been persuaded to refuse. He said, he never would admit the doctrine, that therefore Great Britain had no right to conclude a commercial treaty with France, adapted to her own commercial circumstances, without considering herself as a dependent on Ireland, and consulting her previously upon the subject. Mr. Grenville went into a recapitulation of the parliamentary transactions of 1785, respecting the commercial arrangements then agitated in favour of Ireland. He said that the offer of Great Britain had been more liberal than it perhaps ever might be again; and that it ill became those who had principally stood forward in the Parliament of Ireland to persuade that assembly to reject the offer, to be among the foremost to endeavour to prevent this country from carrying into execution a Treaty with France, which was concluded with a view to the benefit of Great Britain. Ireland had been favoured with an early option of solid and substantial advantage, and Ireland had rejected the offer—under circumstances of great delusion, and under artful misrepresentations of the real nature of that offer, he was ready to admit; but having rejected it, till she saw her fatal delusion, and was, from conviction of the value of what she had been so unhappily persuaded to refuse, induced to ask Great Britain to give her a second option, she had not the smallest pretensions to complain of neglect of her interests on the part of Great Britain; and the more especially, as the present Commercial Treaty with France had been concluded with an eye to her interests equally with the interests of this country, as it lay with the Parliament of Ireland to decide for themselves; and if they thought the Treaty advantageous to that country, they had it in their power to make it so, by passing laws adapted to the stipulations in the tariff.

Mr. *Flood* could not have conceived it possible for three or four natural expressions to have drawn down upon him an animadversion, delivered in so high and imperative a tone. Being a native of Ireland, and having the honour to possess a seat in the Parliament of that kingdom, he had thought it his indispensable duty not to sit silent, when so much had been said on the subject of Ireland and its com-

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mercial interests; but he plainly saw, that if any man professed himself to be a friend of Ireland, he was to be reprehended and stigmatized as the enemy of Great Britain. He had before declared, that he was a friend to both countries, and had said that every honest Briton must be the same. The right hon. gentleman had contended that Great Britain was not the dependent of Ireland; it was undoubtedly true: but was Great Britain not bound to take care of the interests of every part of the empire? The Parliament of Great Britain was the imperial Parliament. Was it not, then, the indispensable duty of that Parliament in every great national measure to look to the general interests of the empire, and to see that no injurious consequences followed to the peculiar interests of any part of it? If this were admitted, would any man say that Ireland was not to be considered on the present important occasion? And why?—because the Parliament of Ireland had rejected, with disdain, the commercial Treaty of 1785. The right hon. gentleman had told them that in 1785 Great Britain made a liberal offer to Ireland. This was the first time that it had been owned, that the Treaty of 1785 was the offer of Great Britain; at the time the right hon. gentleman, he believed, had called the measure the Irish propositions, and stated them as coming from Ireland. He had now confessed the fact, and acknowledged that the propositions were English propositions, sent originally from hence to Ireland, then sent back and ultimately returned from England in a shape widely altered from their original appearance. The right hon. gentleman had talked of delusion, and hinted that those who endeavoured to open the eyes of the Parliament of Ireland, were ashamed to avow their conduct. The right hon. gentleman was mistaken. He gloried in the share which he had taken in that transaction. The offer had been insidious, and, under colour of commercial advantage, the constitution of Ireland was endeavoured to be bartered away. Mr. Flood said, that he hoped it would not be thought that he had obtruded the subject of Ireland upon the House. It had been agitated for a considerable time before he interfered; nor should he have said thus much, had he not thought that his silence would have been deemed a dereliction, on his part, of a cause which it would ever be his pride to assist in supporting. There was something so high in the tone of the right hon. gentleman, that it struck his ear as extraordinary: he could not imagine that the right hon. gentleman meant any thing personal; but he begged leave to say, that no man living should brow-beat him, or awe him into an unbecoming silence.

Mr. *W. W. Grenville* said, that he hoped no man would believe that he meant to brow-beat the right hon. gentleman, and far less could he have intended to have stood up as professing to entertain any sentiment inimical to the interests of Ireland. For that country he felt a warm affection and sincere regard, grounded on principles of personal gratitude for past kindnesses and attentions to himself, and on a variety of dear and interesting considerations. In the progress of the Irish propositions through that House, he had been actuated by those principles, and had stood up as the friend of Ireland to stem the torrent of prejudice, to resist and oppose the objections of interested individuals, and to reason into silence and conviction the groundless alarms and apprehensions of those manufacturers who, misled by factious men, were taught to be terrified at imaginary evils, and to expect dangers never likely to happen. Mr. Grenville stated the object and end of the Irish propositions to have been for Great Britain to grant to Ireland as full a participation of her commmercial advantages as could be permitted consistently with her own safety, and to secure a suitable return. The idea of its being intended to assume the power of legislating for Ireland, he contended, was nothing more than an empty phantom, raised by the machinations of sophistry to frighten the Parliament of Ireland from accepting one of the greatest boons ever offered to one country by the impulse of the liberal and affectionate feelings of another.

Mr. *Fox* reprobated the idea that nothing beneficial to Ireland was to be thought of, because she had refused the propositions of 1785. He entered into a detail of the nature of those propositions, stated his own conduct respecting them, and concluded with moving, that the words, "this day se'nnight, be inserted in the motion, instead of the word "now."

The amendment being seconded by Mr. Pelham, the House divided on the motion, that the word "now" stand part of the question: Yeas, 153; Noes, 70. The Resolutions were then read a second time, and agreed to.

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Debate in the Commons on the Address upon the Treaty of Commerce with France.] Feb. 21. Mr. *Blackburne* said, that as the Treaty of Commerce with France had undergone a considerable degree of discussion, he would not take up the time of the House by going into a detail of its merits, but would content himself with observing, that it appeared to him, from the most serious attention which he had been able to pay to it, to be likely to be productive of the most beneficial consequences to Great Britain. The blessings of peace would thereby be rendered more permanent; a circumstance highly desirable after so long and so unfortunate a war. In the course of the discussions which had taken place, great stress had been laid upon the opinion of the manufacturers; he was therefore extremely happy to be able to assure the House from his own knowledge, that the manufacturers of the county which he had the honour to represent, not only approved of it, but were exceedingly anxious that it should be carried into execution with as little delay as possible. As a proof that these were the sentiments of at least a very large description of manufacturers, he read a lettter, which he had that day received from Manchester, and then moved, "That an humble Address be presented to his Majesty, assuring his Majesty that we have taken into our most serious consideration the provisions contained in the Treaty of Navigation and Commerce, concluded between his Majesty and the Most Christian King; and that we beg leave to approach his Majesty with our sincere and grateful acknowledgments for this additional proof of his Majesty's constant attention to the welfare and happiness of his subjects: That we shall proceed with all proper expedition in taking such steps as may be necessary for giving effect to a system so well calculated to promote beneficial intercourse between Great Britain and France, and to give additional permanence to the blessings of peace: That it is our persuasion, that we cannot more effectually consult the general interests of our country and the glory of his Majesty's reign, than by concurring in a measure which tends to the extension of trade and the encouragement of industry and manufacture, the genial sources of national wealth, and the surest foundation of the prosperity and happiness of his Majesty's dominions."

Captain *Berkeley* could not second the motion without declaring, that it gave him singular satisfaction to express his sincere approbation of one of the best, and most popular commercial treaties, this country had ever entered into. The hon. gentleman had read a letter stating, in the most unequivocal terms, the due sense which the fustian manufacturers of Lancashire entertained of the Treaty; and he had also in his hand authentic papers from the manufacturers of a county, not the most inconsiderable for its valuable woollen manufactures. The woollen manufacturers of Gloucestershire had requested him to state their entire satisfaction with the Treaty, and their earnest wishes to have it speedily carried into execution. Nor was it from the sentiments of the manufacturers of this county alone that he collected his opinion that the Treaty held out the most flattering prospect to Great Britain. The manufacturers of Rouen and Abbeville, two of the greatest woollen manufacturing towns in all France, had assembled and solemnly declared, that if the Parliament of Great Britain approved of the Treaty, and carried it into execution, their manufactures must be ruined; so little able were they to cope with British manufactures in any market. He denied that the Commercial Treaty with France contained any thing which could affect the Methuen Treaty, or alter our situation with Portugal in any degree. Now if the fact were true, that it had been said in another House of Parliament, that Portugal was at that time negociating with France for the latter to monopolize all her Brazil cotton, in that case he should contend that Portugal was guilty of an infraction of the Treaty, and that we had consequently a right to complain of a breach of faith in Portugal, instead of Portugal having any cause of complaint to allege against Great Britain. It was, he believed, customary on such occasions as the present, to pay a compliment to the minister of the day; and he would avail himself of the usage, by declaring that he held in his hand a testimonial of the grateful sense which the manufacturers of Gloucestershire entertained of the meritorious conduct of the right hon. gentleman, in having made a Treaty, in the highest degree flattering to the manufacturers of Great Britain. This compliment was the more valuable from its sincerity, since it was well known that the inhabitants of that county had been adverse to the right hon.

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gentleman, when he first came into office, but that they now confessed themselves converts to his spotless integrity, and were convinced that he was the heir of his great father's eminent public virtues, and had no object in view but the good of his country.

Mr. *Charles Grey** (member for Northumberland) now remarked, that it was not without reluctance that he rose for the first time in this House, to stand forward in debate upon a measure, which, from the vast variety of interests it embraced, from the extent of knowledge it comprehended, and, above all, from the total change it must occasion both in the political and commercial systems of this country, might appear to require more serious argument and more solid information than he could be supposed to possess. Fully impressed with a sense of its magnitude and importance, he had hitherto remained silent during the different stages of discussion through which it had passed; nor should he now have presumed to trouble the House, but that a circumstance had lately come to his knowledge which appeared to him to be of the most serious moment, and which he thought it his duty to disclose to the House, as an additional caution to them to proceed with the greatest circumspection, and not to preclude themselves by a premature decision (for the Address now moved appeared to him to be absolutely decisive) from exercising at any future period their undisputed right of rejecting, if it should appear wise to them to do so, the Treaty that had been laid before them. Before he opened this circumstance, however, he should shortly advert to the arguments used by the hon. members who moved and seconded this Address.

Both of these hon. gentlemen laid great stress on the general acquiescence of the people; but as the proof of that acquiescence was founded only on universal stillness throughout the nation, Mr. Grey said that he must beg leave to object to a negative argument of that sort, as he never could admit that a silence of complaint could be construed into positive approbation. Their next argument was derived from the approbation of the manufacturers whom this Treaty most immediately affected, and both produced such documents from their respective constituents as would not give him room to doubt of the fact. However, he must object to this argument also, as he should at all times to the authority of any men, who, though intrinsically honest and upright, were, from their situation, open to the impressions of personal advantage. For his own part, he could have no doubt but, from the present allowed superiority of our manufactures to those of France, we should derive a temporary advantage; and it was this circumstance which ought to make us the more cautious in paying a too implicit belief in the opinions of manufacturers who may have their minds diverted from a consideration of the future consequences of a system which holds out to them a seducing prospect of immediate gain. But, more particularly must he object to an admission of their opinions at this moment in favour of the Treaty of Navigation and Commerce with France, when he found them directly contradicted by their evidence given upon oath on the subject of the Irish propositions. And, indeed, the principles laid down by them at that season weighed infinitely more with him than their present opinions, when he recollected that they then had sufficient time for mature deliberation, without the influence of present interest to warp their judgment or bias their understandings. But the right hon. gentleman who seconded the Address, had, to the approbation of the English, added the dissatisfaction of the French manufacturers, as a concurring argument to prove the good effects which we might expect would follow the conclusion of this Treaty. That hon. gentleman was most fortunately situated to collect documents of both; of the first, as representative of a great manufacturing county, and of the last, he imagined, through the medium of some French connexion. He expected, however, that he at least would have rested his arguments on more substantial grounds, and, being personally interested in the prosperity of our navy, hoped to have heard from him in what manner this Treaty was likely to increase our maritime strength, and extend our navigation. But the right hon. gentleman had been totally silent on that head; and Mr. Grey added, if he could prove to him, that, so far from increasing our marine, this Treaty was big with absolute ruin to it, he trusted that he would give up the temporary interests of manufacturers to those more solid ones, in which consist the power and glory of Great Britain.

* The present Earl Grey, A. D. 1815.

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It had been contended, that this Treaty was to do away our ancient jealousies and antipathies, and introduce a system of amity and good-will, and to be productive of those advantages to both nations, which may be naturally expected to flow from a mutual interchange of good offices. But was this a time for laying aside jealousies, when our enemy was more than in a situation to extend that power which must ever be regarded as most dangerous to our interests? Was there any one who really believed in the fair professions and seducing promises of the Court of France? Was there any one that could suppose, that, in the advantages held out to us in this Treaty, if advantages they were, she could have any but an insidious view? Every offer of service from France, he regarded with suspicion—

——Timeo Danaos et dona ferentes—
——Aut ulla putatis
Dona carere dolis Danaum?

Mr. Grey said, that he would not go in search of the numberless instances which might be quoted, where we had been deceived and out-negociated. He had in his hand a recent proof, drawn from the very moment when this negociation was pending, in the midst of these fair professions and cordial assurances, in which the right hon. gentleman opposite placed so much confidence, which sufficiently proved what the view of France had been in the negociation of this Treaty. A right hon. member (Mr. Flood) who spoke in the second debate upon this subject with equal eloquence and ability, warned this House against enabling France, by the means of this Treaty, to secure to herself the trade of America. That right hon. gentleman foresaw, that, by the credit we should afford her, France would be able to supply her own want of capital, and making herself the depository of commerce between us and America, to carry it on in French bottoms, to the equal advantage and increase of her own marine and the diminution of that of Great Britain. But though that right hon. gentleman argued wisely, and foresaw what was probable, he little thought that his apprehensions were actually realized, and that this favourite, he believed he might say this principal object of the Court of France in the negociation of this Treaty, was already in part completed. On the 26th of September the Treaty was signed by Mr. Eden; on the 22nd of October a letter was written by M. de Calonne, with the King's authority, to the American minister, Mr. Jefferson, for this very purpose: it was to this that he alluded in the beginning of his speech, and with the leave of the House he would now read it:

"*Fontainbleau, 22nd October*, 1786.

"Sir; as it is the intention of the King to assist the commerce of the United States as much as possible, I have the honour to communicate to you some measures which have been adopted in relation to it. In a letter of the 9th of January, 1784, to the Marquis de la Fayette, I acquainted him, that instead of two free ports promised to the United States by the Treaty, the King had determined to allow them four, which has been just put in execution; and I promised him to give my attention to the customs and duties upon exports which embarrass commerce, observing to him at the same time, that this object required very great pains in the accomplishment: it is not yet completed. In another letter I informed him, that his Majesty had taken off the duties upon the exportation of brandies, and I hoped that this suppression would be useful to the American commerce; and I promised him also, that the duties of the King and the Admiralty, which were to be paid by an American vessel upon her arrival in the French ports, should be diminished, and that what remained of them should be reduced to a single duty, to be regulated according to the number of masts or the draught of water, and not after the too uncertain estimation of gauging. This reduction requires an exact knowledge of the duties which are collected in the ports; and as they consist of a great number of different sorts, the statements which I am now procuring of them are not yet finished.

"You know, Sir, that the King has appointed a particular committee to examine into our commercial connexions with the United States, and that the Marquis de la Fayette has presented to them a system analogous to the ideas which are expressed in your letter to the Count de Vergennes; but you perceive how imprudent it would be to hazard, by a change of system, the produce of a branch of revenue which amounts to 28 millions, unless it were in a case of the greatest necessity. After a full discussion of every circumstance which can operate at this time in favour of the importation of the American tobaccos into France, it has been determined, not that

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the contract with Mr. Morris should be frustrated, but that after the expiration of it, no contract of the same kind should ever be made, and that in the mean time the farmers-general should engage to purchase annually about 15,000 hogsheads of American tobaccos, coming directly from the United States in French or American bottoms, at the same prices and upon the same terms which are stipulated in the contract made with Mr. Morris.

"You will recollect, Sir, that during the time when resolutions were forming upon the subject of the applications made in favour of the whale oils, the Marq. de la Fayette had made a particular agreement with Mr. Sangrain, that he should receive remittances of that article to the value of 800,000 livres, and that I had granted him passports to discharge this first cargo from all duties whatsoever; the same Mr. Sangrain afterwards made a contract with the merchants of Boston for 400,000 livres per annum for six years, for which his Majesty promised the same advantages which are enjoyed by the Hanse towns. This subject having been lately examined in a more general point of view, the ministry to whom the committee had given an account of their plan, conformable with the Marq. de la Fayette's request and your opinion, for the entire abolition of all duties upon oils, have determined that this plan cannot be carried into effect at present by reason of engagements subsisting with other nations. They have only been able to insure the same favours and the same moderation in respect to duties for ten years to the whale oil, the spermaceti, and every thing comprehended under those denominations, coming from the United States in French or American bottoms, which the Hanse towns enjoy.

"His Majesty hopes that the commercial connexions between the United States and France, will become so extensive as to induce him to continue the effect of this provisional decree; and as it has been observed in the committee that a considerable manufacturing duty was collected on the most favoured whale oil, and indeed upon the oils of this kingdom itself, his Majesty agrees to abolish this manufacturing duty with respect to the whale oils and spermaceti coming directly from the United States on board American or French vessels, so that these oils and spermaceti will only have to pay, in consideration of all duties whatsoever, during ten years, a duty of 7 livres 10 sols, and the 10 sols per livre; this last addition of 10 sols per livre only to continue until the year 1790.

"It has been determined to make particular inquiries into the consumption of Carolina rice in France, and to take measures to encourage the importation of it. In consequence of representations which have been made to him of the considerable duties laid upon the pot-ash and pearl-ash of America, as well as upon the skins and furs of the castor, and upon raw hides, his Majesty has suppressed all the duties laid upon these articles of the growth of the United States and coming from thence on board of French or American vessels. He will also attend to giving due encouragement to all the branches of the fur trade. His Majesty has also consented to discharge from all duties the masts, yards, timbers of all kinds, the red cedar, the green oak—in a word, all woods made use of in ship-building coming from the United States in French or American bottoms. The committee having also represented that there was a duty of 5 per cent. upon the purchase of foreign-built vessels, and that this duty was injurious to the sale of American vessels, his Majesty has been pleased to take the matter into his consideration, and to exempt from all duties the purchase of vessels which shall be proved to have been built in the United States. His Majesty has granted the abolition of the very heavy duties laid upon trees, shrubs, and seeds of trees, in favour of all the cargoes of them from the United States and shipped in French or American vessels.

"As it has been represented that the state of Virginia is procuring a supply of arms to be made in France for their militia, regulations have been made to take away the prohibitions, which until this time have prevented the exportation of arms and gunpowder, as well as the duties required in cases where particular permissions are granted, and to the United States liberty, when they shall so desire, of importing arms, fusils, and gunpowder from France, provided it be in French or American vessels, and that these articles shall be subject to a very moderate duty, intended only to calculate the exportations. Finally, his Majesty has shown the same favourable disposition to the request made to the committee to suppress the considerable duties which exist, at present, upon books and papers of every kind. His Majesty takes off all duties

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upon articles of this kind sent to the United States and shipped on board French or American vessels.

"It is with pleasure, Sir, that I communicate to you these dispositions of his Majesty, which serve as a new testimonial to you of the desire which he has to unite in the most intimate manner the commerce of the two nations, and of the favourable attention which he will always pay to proposals which shall be made to him in the name of the United States of America. I have the honour to be, &c.

(Signed) De Calonne."

"Your nation, Sir, will doubtless be pleased to find the facilities which the King has granted for the export of Bourdeaux, Guienne, and Touraine wines, and the suppression of different duties laid upon them by different decrees of council, with which the Marquis de la Fayette will make you acquainted."

Here, Mr. Grey observed, was a long string of concessions on the part of France, without the stipulation of a single article of reciprocity from America in return. America was not only put on the footing of the most favoured European nations, but greater advantages than any European nation enjoys were given to her by taking off the internal duties upon her oils. She was allowed to import arms, ammunition, and every warlike store, of which she might stand in need; in short, she received every thing that the kindest friend could give, or the most favoured nation could expect. For what did France stipulate in return? for nothing. But was this the effect of mere principles of benevolence in France? Did France really expect no equivalent? Yes, she expected an equivalent in a monopoly of that trade which we once enjoyed, and which supplied us with two kinds of our commercial marine. She expected an equivalent in the augmentation of her own navy, and the ruin of that of Great Britain. But it might be answered, that these concessions on the part of France did not interfere with our treaties, and that we could not prevent them. True, we could not; but we could prevent their ill effects in negociating ourselves with America, a treaty that would give us at least a share in the advantages to be derived from a commercial connexion with that country. And here it might be proper to ask ministers what it was that prevented us from forming such a connexion? Was it that it would be inconsistent with the political interests of this kingdom? No; for he would take upon him to assert, that no connexion which could be devised would be so eligible for this kingdom, or so consistent with the views of true political wisdom. Was it, then, that America was averse to any treaty with Great Britain? Mr. Grey hoped that he should not be hereafter quoted as having said that he had a Commercial Treaty with America in his pocket, when he declared that, so far from that being the case, he had the best reasons for believing that America was both willing and eager to enter into negociation with us on fair and equitable terms.

But it might be proper to examine a little nearer the conduct of France on this occasion. Mr. Eden was sent over to Paris to negociate a Treaty of Navigation and Commerce. Pending that negociation, a proclamation was issued from hence excluding American ships from British ports. Did France take advantage of this step which tended to separate and alienate still farther from us the minds of the Americans to court them at that time into her ports? No; that perhaps would have opened too soon the eyes of this nation, and perhaps impeded the conclusion of this Treaty to which her most ardent wishes had ever been directed. She waited, therefore, till ministers were so far pledged, that they had it no longer in their power to recede, till they were completely hampered in this negociation; she then offered these fair ones, meaning thereby to secure to herself a great commercial mine, and raise her navy on the ruin of that of Great Britain. Here, then, was a glorious instance of the pacific disposition of the Court of France; she negociates with us a treaty, a "tempting bait," as it had been called, by which she cuts us off from the rest of Europe, and precludes the possibility of our fortifying ourselves by any new alliances, while she obtains an absolute ratification and acknowledgment of the Family Compact, secures herself at the head of a formidable confederacy, avowedly hostile to our interest, and lays the foundation of a future trade in an exclusive trade with America, which under such advantages must inevitably become superior to ours. He trusted gentlemen would see this in the light he did, and that we should no longer be so blind to every thing which we had read, to every thing which we had seen, to every thing that we had felt of French perfidy;

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to all which experience, derived from the history of past times, taught us; to all which our sufferings at this moment proved, or to the authentic evidence of the paper which he had now produced, as to imagine that the French could have any other object in view than this only one to which their constant and invariable policy had always been directed — the aggrandizement of their own country on the humiliation of this. The end of France had ever been the same; it was only at this moment that she adopted the plan of a more enlightened policy, to secure that object to which her former efforts had been incompetent. It was not that this ambition had changed its nature, and when on the point of being completely gratified, had at once exchanged its former qualities for principles of forbearance and moderation: it was not that France, convinced of the injustice of her former conduct, was willing to make an atonement to this country, by granting us a fair partition of mutual advantages, in order to establish an equal and permanent system of peace: it was, that she had at length discovered that policy is preferable to force; that court enmity, under the mask of fair professions, is more sure in its effects than open violence; and that, by negociation and intrigue, a fairer and safer road is opened to the accomplishment of her main object, than by the vigour of her arms or her prowess in war. It was upon this principle that France had now changed her measures, but not lost sight of that which she had so long laboured to attain; and it was now her policy to separate, to divide, to insulate us from the rest of Europe; to render England not more completely an island in her local than in her political situation; to form an impassable gulph between us and America, with whom, upon every principle of mutual interest, we ought to be connected; and having thus disjoined and detached us from those powers with whom we ought naturally to seek for alliances, to wait till we shall be completely shackled in the fetters of this Treaty, when she may pursue, uncontrolled, those schemes of power which have so often proved fatal to the repose of Europe, and which, but for the efficient interference of her now debilitated rival, had gone well nigh to establish a system of universal dominion.

Mr. Grey now begged pardon of the House for having thus long trespassed on their indulgence, particularly as he had detained them from hearing the still more forcible arguments which might be expected from persons of much greater ability and experience than himself. He could not, however, sit down without begging that his conduct on this occasion might not suffer any misconstruction. He hoped that he should not be supposed to oppose this Address from any want of personal attachment or respect for his Majesty; as he should always be one of the first and most eager to approach the throne with sentiments of true loyalty and veneration. He considered this Address, however, as including a final approbation of this Treaty, to which alone his opposition was intended, as he really in his heart believed it to be the most pernicious measure that ever was proposed to this House. The right hon. gentleman opposite would not, he hoped, imagine that he acted from any personal prejudice against him, or any party view whatever. He verily believed that the good of the country was what he had most at heart; and however we might differ in our opinion of what measures were most calculated to promote it, he trusted that he would render him the same justice, in believing that his conduct upon this occasion had not been influenced by any sinister motive.

Mr. *I. H. Browne* declared that it was evident from the silence of the manufacturers, that they approved the Treaty; an approbation in which he most heartily concurred. Indeed, the letter read by the mover of the Address, and what had been urged by the seconder, were incontrovertible testimonies that the fact was as he had stated. Nay, he had it in his own power to corroborate and confirm the fact. He had the honour to represent a manufacturing town, and lived in a county where many of the great iron-works were carried on. With those manufacturers he had conversed on the subject, and learnt from them that they were sincerely pleased with the Treaty, and regarded it as a singular benefit to the trade and commerce of the kingdom. Indeed, it appeared to him rather extraordinary to state it otherwise, since the first and obvious consequence was, that we should have 24 millions of new customers; a circumstance which could not but tend greatly to increase the consumption of our manufactures, and to add to their demand; consequently, to increase the calls upon the labour and industry of our manufacturers, and those employed in the various

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departments of their manufactories. The extraordinary increase of the sale of British manufactures could not fail to be productive of another consequence of infinite importance to this country, after her resources had been so much drained by the late unfortunate war: the consequence he alluded to was, a large increase of revenue. Again, a third material benefit would arise; a great stop would be put to smuggling and the illicit practices carried on between this kingdom and that of France. With regard to the letter which the hon. gentleman who spoke last had produced, he did not see but that it told as much one way as it did the other. It proved the pacific disposition of France, and the wisdom of her conduct in extending her commerce.

Mr. *Robert Thornton* also approved of the Treaty. The political and commercial parts of the Treaty hung upon each other, and ought to be considered as blended and involved. What could it be which made gentlemen suppose, that, after the Treaty was fully executed, the national jealousy would be more off its guard than before? Did they dread any opiates infused in the wines of France, or were they afraid that their intoxicating quality would remove the power of providing for national security? For his part, he saw no reason to fear imaginary danger; nor could he reconcile himself to the opinions of those who were anxious to deliver us over to everlasting enmity with France. He maintained that it was wise for this country to enter into a commercial treaty with France, and stated his reasons, declaring that he was confirmed in his opinion by one of the best writers of the age, Dr. Adam Smith. Mr. Thornton differed from Mr. Grey in several particulars, and especially in respect to our marine and navigation; declaring that the south and south-east coasts of Great Britain, and the north-west coast of France, were so conveniently situated, that almost as many returns could be made in a year, as by an inland trade, and exclusively of that immediate to and fro sail, we should retain all our circuitous trade to the rest of the globe.

Captain *Macbride* observed, that whilst he expressed his dislike to the Treaty, he must acknowledge that he rested his aversion upon grounds dissimilar from those taken by most other gentlemen who disapproved of it. He would neither interfere with its commercial nor its political relations. What made him object against it was, that it more resembled a treaty concluded between France and the King of Prussia than a commercial treaty with France; and, as to a treaty of navigation, it had no pretensions to the title. The 22nd article was one of those to which he most objected. The articles described in it as contraband, such as arms, cannon, &c. appeared to be on the whole rather fit for a place in a treaty where the preservation of an army, than the care of a navy, ought to be the predominant characteristic. The 34th article was particularly injudicious. Having made this remark, he went into a professional detail, to show what the practice had been, which formerly obtained, and contended that, as the article stood, it would operate prejudicially in time of war with regard to the manning of King's ships. A privateer would, by the 34th Article, be enabled to get his men sooner than the captain of a man of war. Glaringly reprehensible was the folly of throwing any additional difficulty in the way of manning our navy. France, by the register of her seamen, had an evident superiority in point of quickness of filling her ships complements. France was at this time intent on taking care of her marine, and making preparations against a future war. Some of the most judicious regulations that the wit of man ever devised, had been lately adopted in France for that purpose; and not the least of her good plans in this respect was that of her sending out ships on cruizes, merely to exercise the old officers, and train up young ones. In our service no such practice prevailed; on the contrary, the old officers were driven from the service with disgust, and young ones were not invited to enter into it. There never was a greater occasion for an inquiry to be instituted into the state of the navy than at present; and this conviction was so strongly impressed upon his mind, that he had resolved to embrace the earliest proper opportunity of moving for the institution of an inquiry of this nature.

Mr. *Welbore Ellis* said, that by the forms of the House, they were in all matters which concerned trade and commerce obliged to go first into a committee of the whole House, and there move certain resolutions to be afterwards reported to the House; and, when the House had agreed to them, a motion was usually made to bring in one or more bills, as the nature and circumstances of the case might re-

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quire. When the bill or bills had passed their usual stages, and had been read a third time, the business was over, as far as regarded that House. On the present occasion they had only got the length of reporting the resolutions, and the House having agreed to those resolutions, an address had been moved to his Majesty. No hon. gentleman approved more of going up to the throne with addresses, expressive of loyalty and duty, than he did; but he could not therefore agree, that it was any ways becoming or consistent with the forms of the House to go up with a premature address, while the business it went on was not ripe for such a procedure. The address which had been moved was final and conclusive. If voted, it pledged every member to support such bill or bills as it might be thought proper to bring in, grounded upon the resolutions of the committee, out of which they had so lately come. In those circumstances, therefore, it would be a direct violation of parliamentary form to vote the Address; and as the Address, if voted, would be premature and imperfect, in order to rescue that House from the awkward and embarrassed situation in which they would stand, were they thus irregularly to proceed, he would move the previous question.

Mr. *D. Pulteney* said, that he did not presume to rise in order to contend against the right hon. gentleman in age, abilities, or experience, or to offer any naval answer to the hon. gentleman who preceded him. He conceived the doubts of one hon. gentleman were done away by the sanction which the Address had received from the chair; and that with respect to the latter, if the Treaty contained principles so manifestly injurious to the navy, it should never have received such unreserved approbation from the hon. gentleman who had seconded the Address; a gentleman who was an equal credit to his profession, and to the county which he represented. He would therefore plainly and shortly proceed to the merits of the original question; and in the first place, he could not pass over the silence of the manufacturers themselves, which he considered as a strong species of mute eloquence in favour of the measure; but the House would neither be controlled at any time by their groundless jealousies, nor acquiesce implicitly in their silence. The cause was then in the hands of its legal and inquisitive guardians, and that cause had been fully discussed by those who could have no possible interest distinct from the great counties or manufactories which they were appointed to represent. Apprehensions had been suggested in the House respecting the cottons: he had heard that the loss of the cotton wool from the Brazils, and of that received through Flanders and Germany, might be exceedingly injurious to the manufacture. He much doubted the policy of such suggestions in that House; but he had the satisfaction to say, that he had likewise heard great commercial authorities in the House point out new sources of supply to replace such imaginary failures: he knew himself that the cheapness of the material was no certain assurance of cheapness in the manufacture; when the cotton wool was much lower in France than in England, he had seen the Manchester goods worn in Normandy within a few miles of the principal manufactory of that country, supported by occasional bounties; yet these goods had forced their way through Jersey to Grandeville, and other towns on the coast, in spite of the expenses of freight and the risk of illicit commerce. With respect to woollens; till the soil of France was so altered by the hand of nature herself as to produce the raw material equal to our own, this was an article of produce as peculiar to England as the wines and brandies were peculiar to France; nor could the very finest cloths (a trifling part of the general manufacture), though curiosity and caprice might afford them a temporary introduction, long oppose with success their flimsy materials or superficial gloss to the more perfect and durable productions of the English loom. The articles of sadlery, of pottery, and of hardware, were equally articles of English produce as long as the bark, the clay, and the coal, were the productions of the English soil, in which we knew not of any rival. Mr. Pulteney then alluded to a suggestion from Mr. Fox respecting the danger to the beer, and concluded this part of his argument by quoting an old remark of sir Robert Walpole, "that the landed interest resembled a sheep, whom he could sheer at any time, and it gave him a rich fleece in silence; but that the trading interest resembled a more unruly animal, on whom if he laid his hand, though it was only to feel and improve his condition, much more if he attempted to pluck from it a single bristle, it raised such a grunting and outcry as to

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alarm the whole neighbourhood." Mr. Pulteney said, he presumed to make no such comparison; this however he might be allowed to say—that body of men were at least never distinguished for inattention to their concerns, yet they had raised no outcry on this occasion; he knew of no pretence for any outcry; he was convinced in his conscience, from all which he had heard on the subject, that he was, in approving the Address, giving the most beneficial vote to the trade of this country he ever should have to give within those walls. With respect to the political part of the question, a right hon. gentleman (Mr. Fox) had argued it with his usual dexterity and eloquence; yet, though he agreed with him in many of his premises, he was no convert to his conclusions. That France was the natural enemy, or to speak more gently, the rival of this country, he was ready to allow: he must be a novice indeed in history, even of the last ten years, who did not readily subscribe to such a position; he allowed that we ought to be jealous of all her measures, and prepared against the most wanton display of her ambition; but how were we to be prepared? by cultivating our commerce, that principal and main sinew of our national strength, which had hitherto been our support, and had enabled us to foil that ambitious power in so many campaigns. Gentlemen had reverted to the prevailing principles of the House at the peace of Utrecht, and during the reign of the Stuarts; but granting that those principles were wise in that day, he contended that the opposite principles were become equally wise in the present. Many reasons for such his opinion were of too delicate a nature for public discussion, but one at least was too notorious. The superiority of commercial and manufacturing skill had, since those days, shifted from that country to this. Were we to carry on no intercourse but with our natural friends? Was America our unalienable ally? Were the northern powers, who formed the armed neutrality? Was Portugal our assured friend, who captiously cavilled at the Methuen Treaty and rejected the Irish woollens in the moment of our greatest embarrassment and distress? Yet he contended, that it was the policy of this country to cultivate an intercourse with each of these powers; it was our policy to cultivate a trade with France herself, if such trade could be conducted to the same ends—an encouragement of our industry, an extension of our credit, an employment of our capital, and, above all, a supply to our navy. With respect to the motion that had been offered by Mr. Fox in the committee, for reducing the Portugal wines, he must at first sight condemn it, as a measure which would take from ministers their responsibility, and disarm the executive government during the pendency of a negociation; but with regard to the conduct of that kingdom, she might injure Britain, but she would ruin herself. He concluded by declaring, that he should vote for the Address.

Mr. *Sheridan* said, it was not his intention to enter into the general merits of the Treaty, as he conceived the question before the House respecting the Address related to a measure so violent, so unprecedented, and so unparliamentary, that no other ground of opposition ought on that day to be taken, except to the irregularity and foulness of such a proceeding. The single part of the hon. gentleman's digressions in which he would follow him, was the insinuation he had thrown out as to his motives, in having introduced Ireland as an object inseparably connected with the discussion of the present Treaty. Mr. Sheridan defended his conduct in this respect, and commented on the expressions of Mr. Hawkins Browne, that Ireland could not expect the same concession as France from this country, because she had nothing to give in return: it was his intention to bring this subject regularly before the House, when an opportunity would be afforded to gentlemen to support their insinuations by argument if they could. With regard to his being a self-appointed representative for Ireland, he should only say, that he trusted some credit would be given to his acting independently of the influence of such a nomination; otherwise he must observe, that it was a fortunate circumstance, that if Ireland had a representative in the British Parliament, the lord-lieutenant was possessed of the same privilege; and he trusted that it would no more be suspected that he was influenced by prejudices in favour of the country he represented, than that the hon. gentleman was directed by a servile acquiescence with the opinion of his noble constituent. Mr. Sheridan then entered into the argument which had been first suggested by him to the House, relative to the irregularity of proposing such an Address as that which was desired to

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be voted, and declared that the real question was not, whether the French Treaty was desirable or otherwise, but whether the essential privileges of Parliament should be sacrificed as a mere matter of compliment at the foot of the throne.

Mr. *Burke* contended, that the opinions of the manufacturers of two counties, however extensive and commercial, should not be taken for the sense of the people of England; and that every person must be aware of the disposition of traders to snatch, at all events, at any immediate advantage. With regard to the conduct of this country towards Ireland, he thought that every means should be used to draw together the bonds of union, and not to separate them by illiberal jealousy and revolting expressions. There was, indeed, one sovereign to the two kingdoms, and they spoke the same language; but that was not sufficient to keep them together without mutual confidence and a reciprocal exchange of good offices. He had heard nothing, for some time past, but panegyrics on the French — while our tongues were let loose in the foulest asperity against other states. Ireland was an infatuated island—Portugal an unnatural, a base, a worthless, an ungrateful nation! We cling to France in proportion as we separate ourselves from all other states. But what are our panegyrics on the French? Do we commend them for their gallantry, their valour, their ingenuity, their power, their opulence, their policy, their wit? No. We praise them for their sincerity, their forbearance, their moderation, their truth, their kindness and good-will to this country; and we have taken a twelve-years lease of all these good qualities. France, it has been observed, is a wise nation—and it is to be hoped that we are also a wise nation. But if this be the case, we have been a very unwise, a very foolish nation for near a century, to refuse constantly what, in our present fit of wisdom, we give up to France: not that he meant to say, we give up our manufactures to the French —on that head, he was ready to declare that he had no jealousy; nor did he conceive that France could, for a considerable time at least, rival our manufactures. On the contrary, he was assured that in various branches there were large orders from France, while, comparatively speaking, there were few, excepting in the article of wines, from Great Britain. Our capital gave us a superiority which enabled us to set all the efforts of France to rival our manufactures at defiance: the powers of capital were irresistible in trade; it domineered, it ruled, it even tyrannized in the market; it enticed the strong, and controlled the weak. This capital, he asserted, was supported only by the universal partnership in which our funds, and the nature of our establishments, kept the immense property of this country. It was by keeping it dammed up from France, that this general partnership within the nation subsisted. The moment we admit France, she will immediately begin to insinuate herself into the partnership, and in the end come in for a share of the capital. By means of the correspondence which might be established between the two countries, an alliance in commercial undertakings would soon blend the property of the two kingdoms. In this we had reason to admire the depth of the designs of France: she was ready to put up with a temporary loss in trade, by the superiority of our manufactures, for a permanent, future advantage in commerce. Holland was a proof that commerce is more than a compensation for manufacture; and Germany was a proof, that with manufactures a state may be plunged into the abyss of poverty: for no commerce had subsisted there since a vessel was wrecked *on the coast of Bohemia!*

The designs, then, of France were to allow us some present gain in the sale of our manufactures, for some permanent advantages which she promised to herself in commerce. Through her rivers and canals she intended to pour the commodities of England into other countries. She had already, by her politics, contrived to wrest our share of the Levant trade from us; and it was a part of her present design to divert the remainder from its former channel; and by supplying all the ports in the Mediterranean sea through the Seine, the Garonne, the canal of Languedoc, and the Rhone, to engross the carrying trade to the Levant, and to ruin our factory at Leghorn and our other establishments in those seas. Her conduct was similar towards America; which proved that she proceeds systematically, and makes her progress in a regular series. What could she expect from America in return for the bounties and free ports so liberally granted her? America could make no return at present; for she was totally unable to pay the debts she had already contracted with the French

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government and the French merchants. It is evident that it is for benefits which she has in prospect. What a reverse in the conduct of our Government! We act wholly without system, and abandon Portugal for France, while it is in our power to form arrangements with both by no means incompatible with each other. France, on the contrary, points all one way—to the increase of her navigation and commerce. The advantages she is to gain are political, naval, and commercial: ours will consist only in the sale of manufactures. But we have been told repeatedly of the friendly disposition of France: she opens her arms, it is said, to receive us into her bosom; this might be said in more than one sense. She opens two arms to embrace you in the channel! It was not without astonishment (Mr. Burke added) that he considered the immense operations now carrying on at Cherbourg; they exceeded the pyramids of Egypt, as much as the wisdom and policy of their designs exceed the idle vanity of the sovereign who caused those piles to be constructed. Their efforts were wonderful; they grappled with nature, removed mountains, overcame the ocean, to be enabled to look into Portsmouth. Yet we sat down in stupid insensibility of the danger with which we were menaced: we were deaf to the notice which was given us of our peril; it was in vain the alarm was sounded:

Aut hoc inclusi ligno occultantur Achivi;
Aut hæc in nostros fabricata est machina muros,
Inspectura domos, venturaque desuper urbi;
Aut aliquis latet error————

While the mill-stone is hanging over our heads, we talk of a union with France. But that she has little sincerity in such a union, may be inferred from the eagerness with which she increases her alliances; yet the temporary advantage of a little trade blinds the nation against its real interest, and renders it a prey to her delusions. She is treated like a woman who has been debauched, and is told, Have you not fine clothes, do you not enjoy all the luxuries of life, are you not caressed and courted, do you not ride in an elegant carriage, and live in splendid lodgings? how, then, are you ruined? The answer should be, she is ruined, because she has lost her reputation. It is the same with a nation: if it has lost its character, all is gone, and nothing remains but gaudy trappings to conceal its misery. And it is of little consequence, whether this consists of fine cambrics, of rich scarlet or good black cloth, of silks or satins. The same principle holds good with nations as with individuals. When once a man has sacrificed his honour, in what respect is he better than a beast? What is he good for, but to fatten? To drink rich wines and wallow in luxury and riot? Equally insidious were the designs of France in endeavouring to make a treaty with Portugal, to secure to herself the monopoly of the Brazil cottons: this was an indisputable proof of the insincerity of the French Court. Our manufacturers might exult on the temporary advantage they would derive from the avidity of the French for English commodities; but if at the expiration of twelve years France should be found a large, commercial, trading, and naval power, the merely temporary benefits of trade would, doubtless, become purchased at a most shameful and alarming price—the price of irretrievable ruin to this country.

Lord *Mornington* said, that although the Commercial Treaty had been so long before the public and the House, that he conceived no man could be unprepared to come to a decision upon it, yet it would not evince that attention which the House would always pay to the feelings of their constituents, to proceed hastily to act on a decision, if a general alarm and apprehension appeared to exist in the minds of those whose interests were most materially affected by this important measure. Had any such apprehensions been stated in petitions to the House, they would have been considered patiently and respectfully, reserving, however, to the House the exercise of its own wisdom on the whole subject; for the Legislature, though it would never reject the petitions of men interested in the subject of discussion, was not bound to a blind adoption of every fear which might agitate their minds. But if no such alarm did exist, (and that it did not was incontestable) he never could admit, that the silence of the manufacturers, under all the circumstances of the moment, did not afford a strong and substantial proof of their approbation of the Treaty. He then proceeded to state the circumstances under which the manufacturers had remained silent. He mentioned their disposition to stand forward where their interests were touched, which, he said, had been fully evinced in the recent instance of the Irish propositions. He asked, if it could be denied that every pos-

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sible incitement had been applied to urge the manufacturers to the bar on the present occasion? He then enumerated various attempts of the other side of the the House, to extort complaints from this respectable body of men. He contended that they had first been charged with inconsistency, if they did not come forth to maintain the opinions which they had advanced against the Irish propositions, and which were asserted to point with equal force against the French Treaty: their silence was contended to be a desertion of former opinions sanctioned by the solemnity of an oath: but when this tone of reproach was not found to have produced the intended effect, then a milder tone was adopted; they were told, that whatever private interest they might feel in the conclusion of the Treaty, it was hoped that they would not suffer so unworthy a consideration to guide their judgments on this great question; the manufacturer was called upon in pathetic language to raise his mind above the low cares of his private interest, and to look to something more extended and more liberal: but when this appeal had been urged to the woollen manufacturer, when he had looked beyond his own immediate interest to that of the cotton, of the hardware, of the iron, of all the principal branches of British manufacture, and had found all those concerned in the several branches individually contented with the Treaty, and had drawn no unreasonable conclusion, "that as each great interest of British manufactures seemed content under the Treaty, there was probably no great danger to the general trade of Great Britain," then he was told that he must not stop here, he must take a wider range, and a more comprehensive view; he must look to the interests of the navigation and marine, and even to the balance of power in Europe. Yet, when neither this groundless reproach nor this artful flattery, which would put the manufacturer in the place of Parliament, had succeeded in bringing him to the bar, then a new species of argument was discovered. We had been told that there was no occasion to bring the manufacturers to the bar; we had no occasion for petitions; we had their opinions already in the most solemn and authentic form. The opinions delivered on the Irish propositions applied with equal force to this question; and on the evidence delivered two years ago on another subject, the House had been called on to decide the present question. Extreme, indeed, was the injustice which this mode of reasoning offered to the manufacturers. It must be remembered, that the House, though it had received the opinions of the manufacturers on the Irish treaty with due attention, had not acted upon them; and now these opinions were to decide the House on the French Treaty: they had not been allowed to operate in the decision of the question to which they had been immediately applied; but having been recorded against the manufacturers, at the end of two years they were, by an inference and induction, in which the manufacturers had no part, to be brought to bear on a totally new question, and to decide it, against the real wishes of those whose sentiments were thus perverted to a purpose so foreign from their original direction. And now, when it appeared that the House was not prepared to adopt this last argument, it was as openly and broadly avowed, that the opinion of the manufacturers was of no sort of consequence, for that they were persons too deeply interested in this question to be allowed any weight in the decision of it. This confession was a complete desertion of the commercial part of the subject, and brought the whole to a political question. Much mention had been made of Ireland in the debates on this Treaty. With all due deference to the talents and the eloquence of two hon. gentlemen (Mr. Sheridan and Mr. Flood), he must beg leave to assert, that it would be a matter of no great difficulty to prove, in opposition to their opinions, that Ireland, after this Treaty, would remain a nation more highly favoured in the British market than France. He added, that if Ireland were to enter into a treaty with Great Britain, founded on the principles of the French Treaty, her staple manufacture would be undone.—He then made some remarks on the political part of the question, which he considered to be implicated with the commercial. It had been eloquently urged, that whatever might be the commercial merits of the Treaty, in a political view it prostrated the majesty of this country at the feet of France, and deposed Great Britain from the throne of Europe. He answered, that the true majesty of Great Britain was her trade, and the throne of the commerce of the world was the fittest object of her ambition. He said, that the industry and ingenuity of our manufacturers, the opulence which these had dif-

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fused through various channels, the substantial foundation of capital on which they had placed our trade,—a capital, which had that night been well described, as predominant and tyrant over the trade of the whole word,—all these as they had been our best consolation in defeat, were the most promising sources of future victory; and that to cultivate, to strengthen, and to augment these could not be inconsistent with the glory of the kingdom. Regarding the Treaty as aiming at these beneficial objects, he should vote in favour of the Address, and thus sincerely express his approbation of a procedure by which the best interests of the nation were likely to become considerably and permanently strengthened.

Mr. *Anstruther* defied ministers to produce a single instance from the Journals that could in any manner be brought to bear upon so extraordinary a proceeding. He also met the argument of the silence of the manufacturers, and combated all that had been inferred on that ground, by declaring, that if the manufacturers had even been clamorous for the Treaty, he should have considered it to have been his duty to have opposed the Treaty, if upon due deliberation it should appear to have been injurious to the political interests of the country at large. That it would prove politically injurious, the arguments he had heard upon the effects the Treaty was likely to have upon our connexion with Portugal, were sufficient to satisfy his mind fully; but he saw another danger, and that was, the danger which the Treaty would draw down upon the very existence of our manufactures. It had been said, with a tone of confidence, that the Treaty was to last but twelve years. Was that any argument? Did gentlemen consider that our knowledge of the cotton manufactory was but of twelve years standing; and if we in twelve years only from the date of our first acquaintance with the art, had brought it to such perfection, what reason had we to imagine that France might not in another twelve years become as skilful and expert in it as we were ourselves, and the more especially as France would have the amazing advantage of all our improvements in mills, machines, &c. &c. &c.? He concluded by declaring that the Address once voted was nothing short of a pledge on the part of the House to vote bills which were not before them, and, for any thing they knew, that might be mischievous in the extreme to the political, the revenue, and the commercial interests.

Mr. *Matthew Montagu* said, that the arguments which had fallen from the gentlemen on the other side, were principally directed to the commercial and political tendency of the Treaty. In the detail of the former, they had met with so complete a refutation from much abler hands, that he would only touch upon one topic, the silence of the manufacturers. This expression was in the mouth of every gentleman: but could the unprecedented exertions in every branch to grasp at the benefits of the arrangement, be termed a silence with regard to the commercial merits of its provisions? No. It was in their actions that we were to look for the reason and unequivocal testimony of their approbation, rather than to deduce their supposed apprehensions from a strained interpretation of a former, perhaps mistaken opinion, on a different subject, inapplicable to the present conjuncture. With regard to the political tendency of the Treaty, it appeared only necessary to observe, that their apprehensions would, for the most part, be found to arise from premises created by their own imaginations. One hon. gentleman (Mr. Grey), whose abilities he was happy, as a personal friend, in an opportunity of acknowledging, had drawn an argument of alarm from a close connexion entered into between France and America, and had blamed ministers for not interfering with a negociation to obstruct such an event. Had that hon. gentleman considered, that, in the present state of prejudice and animosity on the part of America, from late hostility and unexpired rancour, it was not so easy for ministers to negociate with a nation so alienated from its mother country; but that the silent operation of convenience would bring her, in the process of a short time, to that market which could best supply her wants, and give the most valuable equivalent for her produce? The skill of our manufacturers, by long experience in working for the American consumption during our monopoly of that trade, had gained such a momentum in the employment of their capital to that purpose, as must bear down all opposition, whenever the market should be opened to fair competition. We had therefore little to fear from any great comparative accession of strength to France, from her connexion with America. A right hon. gentleman had said, that the advocates of the

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Treaty were so infatuated by the love of their darling object as to forget the language of Englishmen, and to enlarge in panegyrics on France, and to deal out invectives against Portugal. These panegyrics were probably to be found in the natural answers to the most unfair inferences from the Treaty, of a desire in the negociator to establish an intimate alliance with our ancient rivals. It was alleged, that France had, in the present instance, given a presumptive proof of her more pacific disposition to this country. In what? In adopting a measure which rendered it her interest to remain at peace. These invectives he imagined were the just complaints of injured benefactors, to that nation, who had defrauded them of that just proportion of reciprocity, to which Portugal was no less bound by the consideration of former important services on our part, than by express and literal agreement by the Methuen Treaty on her own. The same right hon. gentleman had accused the defenders of the Treaty of boasting that France was the dupe in this negociation. Look at the principle of the Treaty; it is to open the most extensive, the nearest, and, consequently, the most advantageous market to the industry of the two nations. The one will send her produce, the other her manufactures. If it had indeed been contended, that the exportation of manufactures, where the value arises from the operation of labour, was more advantageous than that of produce, did it follow that the nation who consents to receive those manufactures in return for an extensive consumption of her own produce, was therefore a dupe in that agreement? The measure of expediency in any proposed action was the prospect of advantage: the commercial advantages of the Treaty could hardly be said to have been contended: the political disadvantage appeared to him to be chimerical and imaginary, founded on an absurd renewal of reasonable distrust, and of a vigilant attention to national honour. "Timeo Danaos et dona ferentes" was the motto of Opposition. But what could be more practicable, and even more politic, than receiving with the one hand presents from our enemies, whilst in the other we cautiously held a shield to preserve us invulnerable, amidst all insidiously-concealed attempts to do us mischief?

Mr. *Windham* said, that, in his opinion, it had been too much the practice to separate the distinct parts of the question of the commercial Treaty from each other, and to talk of the commercial as opposed to the political part, and so on, when in fact they mutually depended on each other, and could not well be viewed separately. He contended, that all arguments like that of an hon. gentleman (Mr. Wilberforce) on a preceding day, recommending the consideration of the commercial interests, as paramount to the political, were inapplicable and injudicious. The political interest of Great Britain ought undoubtedly to be regarded first as long as she pretended to a figure among nations as a political state; and so long as that should continue to be the case, cottagers were not the order and description of the people most proper to be appealed to as judges upon questions like that of a Treaty with France. It was on all hands agreed, that the Commercial Treaty would operate a total change of system in our trade and commerce; it was, therefore, in the broadest sense of the word, an innovation, and an innovation confessedly of the most important, comprehensive, and serious nature. It had already been contended, that however the treaty upon the face of it reserved a salvo in favour of the Portugal trade, as carried on under the stipulations of the Methuen Treaty, it must either mediately or immediately affect the trade of Great Britain and Portugal, which had been admitted to be of infinite use to this country, in respect to her export of salt fish, of peculiar species of woollens, and a variety of other manufactures and merchandizes; and it must also, either directly or ultimately, affect our trade to other countries. These were considerations weighty and momentous. The foreign trade of this country, as established previous to the conclusion of the Commercial Treaty with France, had been settled by the wisdom of our ancestors, as the most beneficial foreign trade which could be carried on by Great Britain; and it had undoubtedly been found extremely advantageous. All these circumstances therefore ought to be balanced before that House came to a decision upon a question of that magnitude; and the rather as our political consequence was not the slightest of the considerations which called for our most serious attention. Was that House prepared to sacrifice national greatness to commercial interest? Was it ready to risk a certain ad-

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vantage for presumptive benefits, and to give up a real good at a considerable hazard, upon the uncertain hope of improvement, and of making that good better? Were gentlemen ripe to give up what had been hitherto considered as the wisdom of their ancestors, and to declare that for a whole century the country had been under a deception, and had been misled by an *ignis fatuus*? A spirit of innovation seemed to have uniformly actuated and governed the conduct of the present Administration. Examples of this disposition appeared in the East India Bill, the Irish propositions, and the fortification system of the last year. That spirit alone ought to excite the jealousy and challenge the caution of that House, which certainly would not admit that innovation, in cases of extreme importance, ought to be grounded on political speculation merely. What satisfaction could be drawn from the experience of the present Administration? Political experience appeared to him to be inseparable from length of days and number of years spent in executive and ministerial offices. They all knew that some men were born poets, others orators; and indeed the right hon. the Chancellor of the Exchequer himself, as well as the hon. gentleman behind him (Mr. Grey) who had first opposed the motion for an address, were instances that eloquence and argument were powers early grasped by young minds; but still, no man could instance a youth who was, all at once, a profound statesman; and the reason was obvious, early age and experience were contradictory terms, and what, in the nature of things, amounted to an impossibility. Neither having the counsels of experience to afford a reasonable prospect of security as to future consequences, nor any thing like a certainty that great disadvantage, politically, financially, and commercially, might not be the result of thus early, and without due deliberation, coming to any thing like a conclusive vote, he felt it impossible to avoid regarding it as the extreme of temerity to present an address to the throne, of which the manifest tendency was to tie down the House to they knew not what, and at least embarrass, if not cut off, their power of future deliberation.

Mr. *Grenville* entered into a general answer to the several objections stated against the Treaty. First of all, he noticed some observations that fell from Mr. Burke. He was happy to hear the right hon. gentleman so eloquently, and so unanswerably describe the capital of this country to be such as would command a preference for our produce and manufactures. To state that the capital of Great Britain was such as to govern, and even to command a possession of market, was certainly the best argument that could possibly be brought in answer to those who had contended that Great Britain would be rivalled in her markets by France in consequence of this Treaty. With this opinion he perfectly coincided. Such was our capital and consequence, that he was assured we should possess every advantage from the Treaty, without France being able to enter into competition with us in any of our markets. With regard to what he had observed relative to the assortments which France would have, from a recourse to our market, and therefore be able to serve America, this certainly was equally in our favour. By our having recourse to her markets, we should be able to obtain assortments which would enable us to serve countries we could not supply before. Besides, admitting that America would not send us her orders, we should now have an opportunity of serving her through the medium of France. Many avenues of commerce would the Treaty open in this manner.—As to the argument respecting Cherbourg, he had only to answer, were we neglectful of availing ourselves of every means to increase our strength and resources of defence? Had we not particularly exerted ourselves to increase our naval defence? Were not our naval stores in the greatest abundance; were not our ships increasing considerably; and was not every method adopted to render our naval strength superior to what it had been known in any former period? An hon. gentleman had stated that the manufacturers of Norwich having approved of the Treaty, could not be considered as any argument in its favour; for their trade depended chiefly on foreign markets. Surely this was the greatest argument in favour of the Treaty. If they found that it would increase their commerce abroad, it was certainly the greatest proof of the benefit which would accrue to this particular manufacture. This might likewise be applied to many other trades which depended on foreign markets, that would now be opened through the medium of France. The Treaty was an intercourse in which Great Britain must necessarily find her capital,

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instead of being diminished, increased; for the additional markets which she would possess must certainly tend to increase her profits, and consequently her riches. Means of commerce which we otherwise could never have obtained, we should acquire by this intercourse. While France was endeavouring to extend her markets, we must necessarily extend ours. Under these circumstances it was his decided opinion, that nothing could have been devised more essential to the interests of the country than this connexion with France. By this means the blessings of peace might be prolonged, and the evils of war procrastinated: the means of commerce would be extended, and the resources of the country consequently increased: our manufactures would necessarily flourish, and the nation become prosperous.

Mr. *Adam* said, he did not mean to speak to the commercial, the political, or revenue parts of the Treaty, but to the question then immediately before the House. He felt himself called to it, particularly by the words with which the gentleman who had spoken last concluded. The question had been stated by him to be new, important, and extensive. He believed it deserved all these different epithets; and, for that reason, a new, extraordinary, and unprecedented step should not be taken in calling for an approbation of it in the manner now done. He stated the question before the House, viz. that on the motion for the Address, the previous question had been moved. The subject for the determination of the House, therefore, was, whether the question for the Address, under all the circumstances of time, of manner of wording, and so on, was a fit question to be put. It was quite clear, that all those who were of opinion that the Treaty in question was not a wise measure, would of course avoid voting for the Address, by supporting the previous question; that all those who were of opinion that there had not been sufficient time to deliberate and inquire, would act in the same manner; but that it by no means followed, that those who were of opinion, that, in principles of policy, it was wise, and that the time for consideration had been deliberate, should therefore concur that this Address was fit, and that the previous question should be rejected. On the contrary, he meant to show, from the invariable practice of the House, that the Address ought to be resisted by all who had any regard either for the independence of the House, or the honour of the Crown. He then stated, that he would endeavour to show the principles on which the House had passed addresses, and that the Address proposed did not fall within any of those principles. When the country was or was not likely to be engaged in war, the House had been in the custom of addressing the Crown, for the purpose of strengthening the executive government. When the Crown, by the prerogative, had concluded a peace, provided that peace were either peculiarly favourable to the country, or had succeeded to a successful or glorious war, it had been common on such occasions to address the Crown as matter of approbation or satisfaction. In the discharge of the executive government of the country, when the Crown had been engaged in negociation, it was customary for Parliament to encourage the efforts of the Crown by their approbation of those exertions in general; but they had been particularly cautious not to express themselves pending any treaty, in a manner to preclude their own free and unfettered powers of deliberation; and such addresses had on all occasions been kept in the most general terms, so as to avoid the possibility of any such construction. Even in time of difficulty and danger, when the war pressed, and negociation was necessary to counteract the power and intentions of our enemies, they had been cautious in their expressions, in the addresses presented to the Crown, lest they should have precluded themselves from future deliberation. To prove this, he mentioned some instances of addresses to King William just before his death, when the same enemies who had threatened the liberties of Europe, had again threatened its power in the year 1700, and in the time of the war which ended with the peace of Utrecht to Queen Anne, to show that when treaties were the subject of address, even in times of imminent danger, the House was cautious in adopting words or expressions which could be deemed preclusive. He mentioned likewise the conduct of the House in the Union with Scotland. That subject, of the greatest importance to the two countries, had been long under deliberation. From the accession of King James I, to the reign of Queen Anne, it had been a subject of speculation and discussion, and it was at last brought forward in Parliament that addresses were voted concerning it. But

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they were uniformly in general terms; no pledge, no preclusion either to the Legislature of this country or that of Scotland. He therefore considered the precedents nearly as his learned friend (Mr. Anstruther) had stated them to be, invariably such as admitted a free discussion of the topics on which they proceeded. He had not heard one instance to the contrary, except that of the Irish propositions, which had not been stated in debate, but rather whispered across the House. There was not the least similarity between that Address and the present; the one pledged the House to nothing final. The words were inconclusive; there had been more complete deliberation, and the object was a Treaty between the parliaments of the two countries; not a final approbation of a Treaty which the King had commenced. He then read a paragraph from the Irish Address to the following effect: "That after a long and careful investigation of the various questions necessarily arising out of this comprehensive subject, we have come to the several resolutions which we now humbly present to his Majesty, and which, we trust, will form the basis of an advantageous and permanent settlement between his Majesty's kingdoms of Great Britain and Ireland." He contrasted these words with the first paragraph of the Address moved, and argued that the expressions of the former contained a more complete proof of serious investigation, independent of the circumstances of time and discussion which every body knew; and likewise that the words showed the matter then begun, not finished, approving, not precluding. He then stated with the last view another paragraph of the Irish Address, to show it was not preclusive, and contrasted that and the former, with the second paragraph of the Address, which he contended was preclusive, and such as, from the words of it, destroyed the deliberative power of the House. In every future stage of proceeding, they must be prevented by this vote from discussing any matter which might occur. Ministers would have it in their power to tell them, whenever they attempted to debate the point in any subsequent proceeding, that their opinion was already given. Another material observation occurred on the Irish Address. That Address had been in consequence of mutual consideration and mature examination by the two Houses. On the present occasion the Lords had never had the subject under their deliberation. He said that he did not contend that the House was incapable of addressing, without the concurrence of the other branch of the Legislature; but that it was not a necessary consequence that because that House addressed, the other would; and if there should be any difference, it would be a most extraordinary and unprecedented thing to find that the hands of the monarch were strengthened by one branch of the Legislature, and the same principle disapproved of by the other. But he contended, that the great and leading feature which should alarm and induce them to vote for the previous question was this, that there were further measures respecting the Treaty for the House to deliberate upon, and that the words of the present Address precluded them from that deliberation. If that was the case, the freedom of Parliament was violated, and the principles of its constitution betrayed. If not, and that they could deliberate again, suppose the result of their deliberation different, they got into a dilemma equally perplexing. By this Address they invigorated the hands of the Crown, told all Europe that they approved of the Treaty, pledged themselves to France, entitled the King of this free country to make a more decisive and determined proposition; and if any future view of the subject should induce them to change their opinion, they could not express that without risking the disgrace of forcing their Sovereign to withdraw a pledge which their rashness and precipitation had empowered him to give. A right hon. gentleman had said, that the situation of ministers was new, and they had been called on for money and measures. No administration had ever delighted more in novelty and innovation; but whether these novelties had been actually carried, or had been miserably abortive, he trusted that they would not be empowered by the vote of that night to add to the list, by voting an Address new and unprecedented, unnecessary and premature in the present stage of the business, and, as he had attempted to show, without a single precedent to direct it; for as far as the principles of the constitution were to be drawn from facts, their voting the Address would be destructive of that freedom of deliberation which it was the object of the forms of Parliament to protect.

Mr. *Wilberforce* adverted to what had been urged concerning the sense of the manufacturers, maintaining that it was

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absurd to deny their being favourable to the Treaty, because they had not made a formal communication of their opinions to the House, when every man must know their universal concurrence in the measure who had made the smallest inquiry. He read a letter to his colleague and himself from a meeting at Leeds, expressive of its high approbation of the Treaty, and desiring them to push it forward with all proper expedition. He desired to state one argument to the House, which had not yet been urged. It might lead the opposers of the Treaty to suspect that party motives had too strong an operation on their friends in the judgment they had formed. Many on that side of the House he really believed acted strictly according to the dictates of their conscience; but what could so plainly demonstrate a spirit of party as the whole of their conduct and language on this occasion. They now in the strongest terms reprobated the idea of any commercial connexion, or any harmonious intercourse with France. They stated it to be a system which it was reserved for the rashness of the present ministry to introduce, it having often before been attempted, but always unsuccessfully; yet he must appeal to the recollection of every man, if the many persons who now urged these arguments had not in the beginning of the negociations heard the proposition of the French Treaty discussed with acquiescence, and even approbation? Why had they not from the first stated these terrible apprehensions which they now entertained, which, he desired gentlemen would observe, were represented not to arise from any particular provisions contained in the Treaty, but from an alarm at our making any treaty at all; any connexion which could bear the name of friendly, with a Power whom we ought to keep at arms length, and consider under all the circumstances as a mortal and irreconcileable enemy: yet, so far from feeling these emotions of horror at the very notion, in the first instance, they had rather considered the scheme as one which Mnistry were not sincere in their attempts to execute, representing it to be little more than a way of gaining over a useful ally to Government in the person of the negociator. But this was not all; for these very gentlemen themselves when in office drew up and ratified the definitive treaty of peace, in which a reciprocal Commercial Treaty was one of the stipulations, and they gave some pointed instructions to their ambassador to this very effect. How could this conduct be deemed consistent? Was he not warranted from it to conclude, that they suffered themselves to be solely actuated by a principle of party; and that it was impossible for his right hon. friend to bring forward any treaty, or any material measure, to which they would give their countenance and support?

Mr. *Young* could not avoid complimenting Mr. Burke on the very able manner in which he had pressed on the House a just estimate of the great superiority of our manufactures over those of France, as well as the advantages of capital, whilst in competition for the market; but when he stated the great copartnership business of England, that concentration of landed and commercial wealth in one great capital, founded in the system of banks and bankers, who, being the depositaries of the landed rents and general property of the subject, and converting those funds to purposes of discount, made all the riches of the kingdom subservient to trade, he could not but consider his conclusion at variance with such a position, when he afterwards said, that, by this Treaty, we should admit France into partnership and a beneficial share of this capital, to the immediate loss of Great Britain. The fact was, that if the first data of the right hon. gentleman were true, (and so he believed them to be), the Commercial Treaty would afford an immediate balance of trade in favour of England, and that balance of trade, adding to the national capital, would give fresh spur and vigour, and leave annually the competition more hopeless on the side of France, at least to the extent of such balance, whether 500,000*l.* more or less; we should not have France for our partners, but be the bankers for that and more. As to what fell from Mr. Flood on the preceding Monday, relative to the value of our home market, as taking nine-tenths of our manufactures, he should beg leave to urge, that occasions might offer in which the remaining tenth part might be of equal value almost with the other nine; for a marine armament, or, in other words, a navy, was not to be supported but on a commercial basis; that is, on an extensive system of exports and imports, and in this, too, our capital might serve us to naval purposes, as it might induce orders on credit, which France could not give, and thus take the carrying trade from her.

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Sir *Grey Cooper* contended, that the Address under consideration, by the force of the words in which it was expressed, became an irregular and unparliamentary proceeding, and was not supported by any one good precedent. It was an unnecessary step in the order of proceeding for any other purpose than that of preclusion. He desired the House to consider in how different a manner their ancestors proceeded in the case of the Commercial Treaty of Utrecht. That Treaty was laid before the House by a message from the Queen: a committee of the whole House was appointed to take the 8th and 9th articles into consideration: after a long debate in that committee, on the question that the House be moved for leave to bring in a Bill to make effectual the 8th and 9th articles, the question was carried by a very large majority: the Bill was brought in and read a first time at the distance of a fortnight from the vote in the committee: there was an interval of a week between the first and second reading of the Bill: petitions now came in from all quarters against the Treaty, and the committee on the Bill sat for many days to hear the petitioners by their counsel against the Treaty. The report from this committee was received and agreed to; but on the question that the Bill with amendments be engrossed, it was carried in the negative by a majority of nine. No address was presented to the Queen till after the rejection of the 8th and 9th articles, and then the Address was to thank her Majesty for what she had done in the Treaty of Commerce with France, by laying so good a foundation for the interests of her people in trade.

Mr. *John Scott* said, that there was not the smallest shade of difference between the import of the present Address, and that which had been voted during the discussion of the Irish propositions; the one saying, that after mature deliberation the House had adopted, and would take steps to carry into effect, certain resolutions; and the other declaring, that after serious deliberation, &c. Mr. Scott then took a general view of the conduct of Opposition in the business of a commercial negociation with France, and insisted that it was manifest such a Treaty was in their contemplation when in office. He was happy that the measure was now effected in a manner which promised this country a great accession of wealth, and held out the most liberal encouragement to her artizans, whose industry, perseverance and skill, joined to their prodigious capital, must ever insure them the superiority. For his own part, he considered the Address as signifying no more, than that those gentlemen who were of opinion that the measure which was the subject of it had been sufficiently discussed, and fully understood, should express by their vote that they approved of its tendency.

Sir *James Erskine* urged a number of arguments against the Treaty, and particularly against, what he termed, the giddy and unprecedented mode of proceeding which was adopted for hurrying it to a conclusion.

Mr. *Powys* expressed his marked disapprobation of the precipitate manner in which it was meant to bind up the House from the exercise of their most important and fundamental privileges, the right of discussing and deciding on every measure in the various stages in which it was usually presented to their consideration.

Mr. *Fox* said, that the House having had the goodness to hear him so frequently, and sometimes at considerable length upon the subject of the Commercial Treaty, he would not, they might rest assured, abuse their indulgence, but would in a very brief manner offer a few observations to their notice on the immediate matter before them. With regard to the Address, of all the practices of Administration, it was the most alarming, the most dangerous, and the most unconstitutional. He would not, indeed, go so far as an hon. and learned friend of his had gone, and agree, that if a single precedent could be found upon the Journals, for such a proceeding, he would relinquish the point, and vote for the Address. There might be, and there undoubtedly were, bad precedents upon the Journals in a great many instances. There might possibly, therefore, be a precedent for the present proceedings; but if there should be a precedent to be found, he would venture to say, that it must be a precedent to be reprobated, and not a precedent fit to be made an example. Mr. Fox reminded the House that the Address went to deprive the House of its legislative capacity, to preclude debate, and to render null and void all those forms which the wisdom of their ancestors had provided, as the parliamentary cautions and guards against surprize, and for the purpose of preventing any measure of a legislative nature from being hurried through the House, without ample deliberation

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and ample discussion. Had the business been brought on in the usual way, they would have enjoyed full time to know the option of the manufacturers, and to discuss the subject again and again, before they came to a decisive vote upon it. In all cases of trade, the forms of the House obliged the matter to be first submitted to a committee of the whole House, where resolutions were necessary to be moved, and consequently where the matter was in the first instance open to debate. The resolutions, when agreed to, were reported to the House, and on the House agreeing to the report, a bill was ordered in. Had that been the mode of proceeding adopted in the present case, instead of a premature address, the House would have had six stages to have discussed the subject in, before they came to their ultimate vote. The bill must be read a first time, it must be read a second time, committed, reported, engrossed and read a third time and passed. At every one of these several stages, the House would have found an ample opportunity of debating deliberately; whereas what was the case then? They were called on to vote an address which tied up their hands, which pledged the House to support whatever bill might be brought in, and precluded all future debate, and all future discussion. This was an ill omen of our future intercourse with France; it was a bad beginning; it was adopting and copying the French constitution at the same time that we were about to take the French commerce. It was commencing our intercourse with France in a most inauspicious manner; and it was not more ungraceful than unnecessary, because the coming to a vote upon the Address would not accelerate the conclusion of the proceedings on the Commercial Treaty; it would not forward them one hour. Would it not, then, on every account, have been more wise, more grave, and more becoming that House, to have proceeded in the usual way by bill, and after they had gone through all the six stages, through which a bill must necessarily pass, would it not have been better, in every sense of the word, to have then voted an address, and gone up to the throne with it, informing his Majesty, that his faithful Commons had complied with his royal requisition in his Speech to Parliament, and agreed to support the Commercial Treaty with France? Should the Address unfortunately pass (which he flattered himself it would not), he must in that case heartily wish that the House had been in a committee, if it were only to save the Speaker from the shame and disgrace of going up to his Majesty and presenting an address. What sort of a speech could the right hon. gentleman possibly make, should he have the disagreeable task of attending at St. James's with the Address? With what an awkward feeling must the right hon. gentleman say, that his Majesty's faithful Commons had destroyed their own forms, and grossly violated the constitution! He reasoned upon this for some time, and after stating it powerfully in various ways, he urged to the House the great unreasonableness of the right hon. gentleman opposite to him, if he pressed the motion on the Address at that time, since it was evident that he would not forward the business by so doing. It was not delay, he said, that he was contending for, because the delaying the Address could not operate as any procrastination of the measures to be taken for the conclusion of the Treaty. He took notice of the contempt with which an hon. and learned gentleman had talked of the manufacturers who signed the Petition on their table. They were not, he said, a "few solitary" manufacturers, as they had been described to be, but men of undoubted character, and undoubted worth and honour; men, who, when they came before that House, either as the delegates and representatives of others, or in their own individual character, were well entitled to be received, and listened to with attention. They had a right to be heard in every stage of the business; but how would the House be able to hear them after the Address was presented, when they would be precluded from acting upon any information, however important, that Mr. Walker or Mr. Holmes, or any other of the subscribers, might lay before the House? Having put these questions strongly, and paid a handsome compliment to his hon. friend Mr. Grey, Mr. Fox at last concluded a most animated speech, with expressing his hope, that it would be the determination of the House to reject the Address for the present, by agreeing to the motion for the previous question, since, if they did not, they would not only make a bad precedent for that House, but as absolutely preclude the House of Lords from free debate, as if they had followed the example of Oliver Cromwell, and silenced that necessary and constitutional branch of the legislature.

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Mr. *Pitt* observed, that it had hitherto been usual for gentlemen on the opposite side to oppose the Treaty on commercial principles, as likely to injure the trade and manufactures of this country; but it now appeared, from the argument of a right hon. gentleman who had taken an active part in the debate, and who had displayed a very uncommon share of ability (and by-the-by he had never before heard a subject handled on both sides of the House with greater ability than the present)—it appeared from the arguments of that right hon. gentleman, that that ground of opposition was at length fully abandoned. [Here, Mr. Burke showing some inclination to interrupt Mr. Pitt, he begged he would hear him out, and then either contradict his facts, or dispute his inferences.] He admitted, that in a commercial light the Treaty appeared exceptionable, though with a view to manufacture it was salutary and advantageous. How such a contradiction could be reconciled, he could not conceive; but from the way in which the right hon. gentleman endeavoured to make it out, it was evident that no such paradox could exist in the present instance, even if it could exist in any. The right hon. gentleman had endeavoured to show, that by means of our great trading capital, our manufactures were secured; but the very circumstance of the extensiveness of that capital would become the means of transferring the disposal of our manufactures from our own hands to those of France: this was a consequence of the enjoyment of a great capital, which he had never heard before, and which he believed would require a greater degree of proof than the right hon. gentleman's argument, however ingenious and eloquent, could possibly afford it. On the whole, he was convinced, that after what had appeared in that House—after the letters which they had heard read by gentlemen who represented those parts of the kingdom which abounded most in manufactures, expressing not only the concurrence of their constituents in the measure, but their ardent anxiety for its immediate completion—when this express approbation of many was confirmed by the silence of almost all the rest, he was convinced that in a commercial view of the subject, there was scarcely a possibility for any difference of opinion. The gentlemen who opposed the Address had not, however, abandoned the other ground of objection on which they had formerly founded their opposition to the Treaty—the evil tendency of its political operation. With respect to that, he agreed entirely with his learned friend (Mr. Scott), that the arguments on that view of the question, if they had any weight at all, went not to the delaying, but the entire rejection of the system. But gentlemen finding all their objections to the measure itself perfectly untenable, had that day resorted to a fresh argument, adapted to the present stage of the business, and calculated to impede what they saw it would be impossible for them, with any prospect of success, fairly to oppose: they now attempted to complain, that there was an intention of coupling the introduction of a system of French commerce with an adoption of the principles of the French constitution. What! was there any thing slavish or inconsistent with the British constitution for the House of Commons to approach his Majesty with an address, informing him that they have taken into their serious consideration a subject recommended by his Majesty, as likely to produce the most happy consequences to his subjects; and that after the most mature deliberation they are ready to co-operate with his Majesty in those measures, which, together with him, they think highly beneficial to the kingdom? So far from any abandonment of the spirit of the British constitution, this proceeding was such as no constitution but a free one could admit of. Gentlemen on the other side had called for precedents, and had founded much of their argument against the Address on the scarcity of such precedents: but he wished gentlemen, before they insisted on any great number of precedents, would show him that there had ever been many instances, in which it had proved necessary for that House to sanction by its concurrence any treaties entered into by the Crown. The fact was, there were scarcely any such instances to be found: but he could, notwithstanding, produce a precedent decisively in point, and which at the same time was a stronger case than the present—a precedent of but two years standing. The precedent he alluded to was that of the address on the subject of the Irish propositions, by which the House had pledged its consistency to the passing of certain acts for the purpose of carrying those propositions into effect. Mr. Pitt compared the two cases together, contending that they were exactly in point with each other, and that no objec-

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tion could be made at the present period, which did not apply with equal authority to the former. As to the merits of the objection itself, "that the House would abandon its deliberative function by now adopting the whole system," he must observe, that in a case like the present it applied with very little force, for it was a case in which the deliberative function of the House was confined to the broad question, whether they should conclude and execute the Treaty at large, and could not possibly enter into any discussion of the detailed parts of it, with a view to alter or amend them. The only point, then, for the House to consider was, whether the Treaty, taken entire and with all its dependencies, was or was not worthy to receive the sanction of Parliament, or whether they had enjoyed sufficient time to weigh it properly. If they thought the Treaty bad for the country, it behoved them to vote against the Address; and if they thought themselves not yet sufficient masters of it, so as to venture then to determine on its merits, it became their duty certainly to vote for postponing the Address. But it was certainly incumbent on such gentlemen as felt themselves prepared to decide upon the Treaty, that it was desirable for the country, and one to which they were at the present moment ready to accede, to give it their full assent: could there be any thing improper in any person undertaking to do at a future period not very remote, that which, if circumstances were sufficiently ripe, he was willing to do at present. He was surprised to hear an objection from the other side of the House, grounded on a tenderness for the rights and privileges of the House of Lords, and a complaint that the House of Commons, in committing itself on any certain specified measure, precluded the Lords from any other exercise of their judgment upon it, than its simple adoption or rejection, without entering into any question relative to its modification or amendment. In the first place, the House of Lords were, in that point of view, in no worse a situation than themselves, for they were only at liberty barely to adopt or reject the measure. But if this were not the case, it was perfectly clear that such a mode of proceeding would put the House of Lords on the most advantageous possible ground for the discussion of the subject; for, as the proposition was one which related to finance, and had for its object a regulation of duties, the House of Lords, if it were sent up to them in the shape of a bill, would not be at liberty to make any alterations in it; whereas, being sent to them only as a resolution, they would not by any means find themselves so circumscribed.

Mr. *Sheridan* said, that he meant to move a new question—the question of adjournment—in order that he might have an opportunity of proposing a resolution upon the subject of the extraordinary doctrines laid down by the Chancellor of the Exchequer; doctrines as new and as unconstitutional as ever were heard within those walls. If the right hon. gentleman had entertained the notion which he had just suggested to the House, he ought to have risen the other day, and declared that he did entertain such opinions, when he (Mr. S.) had expressly said, that an address precluded the House from farther debate, and ought not therefore to be a measure proposed, till every other step had been taken, and the House had given its final vote. By his silence, when he had thus talked of an address, the right hon. gentleman had given his assent to his argument. The right hon. gentleman had told the House, that he could produce a precedent for such an address as the present, and had instantly mentioned one of his own. This was the great feature of the right hon. gentleman's administration, which commenced in proceedings directly contrary to the constitution, and had abounded with instances of outrage against it. But he nevertheless dared the right hon. gentleman openly to stand up and maintain, that an address, of the nature of that which the House had that night been called upon to vote, could be justified.

Mr. *Fox* said, that as his hon. friend had omitted to state what resolution he meant to move, he would declare, that his object was to move a resolution, "that it was the opinion of that House, that it was impossible for them to bind or preclude themselves by any address to the throne, from either debating or voting upon any subsequent legislative question whatever." Mr. Fox reiterated his former arguments, to show the propriety of proceeding by way of Bill, and instanced the case of the Irish propositions, declaring that no man present dreamt of moving an address, stating in express words to the throne, that the House would pass any specific number of bills for the purpose of enforcing the propositions. Had such an address been moved, it would have been repro-

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bated. In the case of the peace of Utrecht, let the House recollect that a bill had been brought in to enact the eighth and ninth articles of the Treaty of Commerce. The question for leave to bring in the Bill, had, on a division, been carried by an uncommonly large majority, the numbers having been above 100 to 12 or 13. It was read a second time upon a division of a large majority also; and it went through the committee, and two or three days afterwards, was in the very last stage thrown out by a majority of 194 voices against 185.* This proved the importance of a regular compliance with the forms of the House, and a due exercise of the deliberative powers. A large majority had thus been, by mere dint of debate and discussion, converted into a minority, and one of the worst and most hostile treaties to the British constitution that ever was heard of, was put an end to and annihilated. What was the reason that the right hon. gentleman did not proceed in the same way now? The reason was obvious. Aware of the event of 1713, he was determined to proceed in another manner: and in order to insure the success of his treaty, instead of risking the chance of deliberation, he had profited by the fate of the Treaty of Utrecht, and had caused an address to be moved to tie up the hands of the House, and preclude all debate, and all danger of future opposition. Had lord Bolingbroke and Mr. Harley, in 1713, been aware of the fate of their Treaty, they, no doubt, would have aimed at doing the same thing; but in those days, when one of the most powerful factions governed this country that had ever been in possession of power, they never dreamt of venturing such a length as the right hon. gentleman, who had profited by the shortsightedness of the ministry of 1713, and had whetted his sagacity upon their dullness.

Mr. *Pitt* lamented that he was still doomed to feel the extremely uncandid manner in which the right hon. gentleman accustomed himself to argue every question in which he took a part in that House. Instead of adhering to the subject in debate, he contrived on all occasions to introduce inflammatory topics, and to insinuate, without a colour or pretence, that something hostile was intended by him to the constitution. The House, however, were sufficiently acquainted with the right hon. gentleman to make it unnecessary for him to enter at all into a discussion with him on that ground. It was true that no resolution of that House could absolutely bind it down to the future adoption of any measure whatsoever; and if, after passing any resolution, the House should see proper grounds for changing its opinion, it certainly was not only competent to act in contradiction to such resolution, but it was its duty so to do. But, at the same time, no gentleman ought ever to give his vote on a resolution of that nature, unless he was reasonably assured, in his own mind, that no circumstances could happen to induce him to change his opinion; and he hoped that such a principle would govern every gentleman who should vote with him on the present question.

The House divided on Mr. Sheridan's motion of adjournment: Yeas, 116; Noes, 236.

The main question being then put, the motion for an Address was agreed to. After which a committee was appointed to draw up and prepare the Address; and the same being read and approved of by the House, was communicated to the Lords at a conference, together with the resolutions.

Debate in the Lords on the State of our Trade with Portugal.] Feb. 23. The order of the day being read,

The Duke of *Norfolk* observed, that he felt a great pleasure in discovering that the business to which he meant to call the attention of their lordships, was concentrated in a single point; and consequently, that he should have occasion to give their lordships the less trouble. He then proceeded to state the great advantages this country had derived from her commercial connexion with Portugal under the Methuen Treaty; and said that, before we entered into new engagements with France, the natural rival of this country in commerce as in power, it behoved us to take care and secure, beyond all risk, our old customer and ally, the kingdom of Portugal. He entered into a discussion of the account of our exports and imports to and from Portugal, as given in a printed paper on the table, and said to have been made up by the factory at Lisbon and Oporto. He declared the paper to be the most incorrect document that he ever knew submitted to parliament, and intimated his suspicions that it was designed for the purpose of depreciating the value of our trade with Por-

* See Vol. vi. pp. 1210, 1220.

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tugal. He examined it article by article, asserting that it was erroneously cast up to the amount of 36,000*l.*, and contended, that the balance of the trade with Portugal, in our favour, was stated at about 240,000*l.* when in fact it amounted to upwards of 400,000*l.* In order to ascertain this point, he reasoned upon each of the items, and pointed out the particulars in which he thought them erroneous. He stated our export trade to amount to more than a million a year, and said the articles were woollen cloths, and 150,000*l.* worth of salt fish, the mere carriage of which from Newfoundland occupied sixty vessels. On the other hand, he expatiated on the usefulness of our import articles from Portugal, most of which were indispensably necessary for our own manufactures; he instanced the Brazil cotton, the salt to manufacture our Newfoundland fish with, the oil to dress our cloths with, and other articles equally necessary for our manufactures. If the import of Brazil cotton made a balance against us of 100,000*l.* a year, he should be glad to find we had such a source of raw material for our very valuable cotton manufacture. He stated, that cotton which cost us 3*s.* and 3*s.* 6*d.* a pound in Portugal, sold here as high as three or four pounds per pound weight. The motion which he meant to offer, in his mind would prove equally satisfactory to the friends of ministers as to those in opposition. The duke concluded with reading the following motions; "That the Treaty concluded in 1703, between the Crowns of Great Britain and Portugal, called the Methuen Treaty, is a perpetual subsisting treaty, and has invariably been found productive of various benefits to the commerce of the two kingdoms. 2. That it is highly expedient that any difference that may have arisen upon the construction of the said Treaty, be amicably adjusted, and such farther arrangements adopted as may effectually secure the uninterrupted continuation thereof, before we proceed to the confirmation of the Treaty now depending with France."—The first motion being put,

The Marquis of *Buckingham* declared, that he should oppose it. The marquis then traced the connexion between the two countries, and between Great Britain and France, from 1640, down to the present time, noting all the historical facts, such as Oliver Cromwell's treaty, the wicked policy of Charles 2nd's ministers, the treaties of James 2, the conduct of William and Mary, the prohibition of our woollens on the part of the Court of Portugal, the effect it had upon our exportation, the formation of the Methuen Treaty, the consequences that had resulted from it, the instances in which Portugal had broken her faith to us, as pledged by the Treaty in the year 1703, and the ground on which we had lately negociated with her through Mr. Falkener. He stated the terms of the Methuen Treaty, and the opinions that the greatest writers on the subject had maintained in 1713, when its merits and construction were so deeply the subject of discussion. The general opinion was, that the Treaty bound Portugal but that it was optional on the part of this country to adhere to it or not. He observed, that the woollens which we exported to Portugal, though an object of some importance, compared to the general export of British woollen, amounted to a mere trifle. According to the Methuen Treaty, British woollens had been stipulated to be imported into Portugal on low and advantageous duties; but Portugal had since, in direct violation of the Methuen Treaty, imposed various duties upon them. She had laid on one duty under pretence of building a custom-house at Lisbon, and that custom-house having been since consumed by fire and rebuilt, the duty still continued, though it had been rebuilt the second time, more than 14 years ago. Portugal had imposed another duty on the British imports into that kingdom, on account of the erection of another custom-house in another place, and she had lately formed a new book of rates, in which, under different pretences, additional duties were imposed upon our woollens and other articles. The marquis followed the noble duke through his examen of the paper on the table, and controverted his line of argument respecting its terms. He contended that it was a fair paper, and that the factory could have no interest in misleading. He laid out of the statement all the amount of the trade of Ireland, and very considerably reduced the balance in favour of this country. He spoke of the fallacy of custom-house books in general, arguing that the entries were sometimes, through the vanity of the exporter, aggravated and exaggerated on the one hand, and the amount concealed on the arrival of the goods at Portugal, on the other. He declared that he must refuse his assent to a motion, the words of which, in his mind,

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were inapplicable, viz. the denominating the existing Treaty, a permanent and perpetual treaty.

The Duke of *Norfolk* said, he had no objection to leave out those words, if that would induce the noble marquis to support his motion.

The Marquis of *Buckingham* replied, that no alteration could induce him to give his consent to a motion, which appeared to him to be more likely to embarrass Government, and procrastinate the event of the pending negociation, than to accelerate it.

The Bishop of *Landaff* (Dr. Watson) said, he could not decline embracing the first public opportunity which had been offered him, of delivering his sentiments on the Commercial Treaty, between France and Great Britain; he conceived it to be a subject of as great importance, as had ever been debated since he had the honour of a seat in that House. His sentiments, he said, were decidedly against the Treaty; and he begged it might be observed, that his opinion was not idly taken up, or rashly entertained; all those with whom he had conversed upon the subject, and he had conversed with not a few, could witness for him, that this was his opinion from the first moment the Treaty was announced to the public, and every thing that he had heard or read concerning it, confirmed him in it. If he could have suffered any bias to have influenced him on the occasion, it certainly would have been a bias from personal acquaintance, attachment, connexion, from a thousand motives, to have concurred in opinion with the chief supporters of the Treaty; but his mind was against it, and he could not do it; his judgment was against it, and he would not do it.

In considering the subject, he would take a wider field than what had been pointed out by the motion of the noble duke; he would not merely consider the question, as it affected our trade with Portugal, but as it affected our foreign trade with all the world, being persuaded that the more intelligent and comprehensive view their lordships had of the question, the more likely they would be to come to a just and proper conclusion. The question before their lordships, he observed, was of such a novel, extensive, and complicated nature, its consequences were so much involved in darkness and conjecture, that he scarcely knew how to treat it on principles of sound reasoning: he was anxious to find out some clear and incontrovertible *data*, on which he might proceed to ground a conclusive argument; for speculative declamation, on either side, was quite beneath the importance of the subject, and unworthy the attention of the House. He could not, he thought, proceed on better grounds than by submitting to their lordships consideration, an abstract statement of our foreign commerce, from the year 1740 to the conclusion of the last peace. He pitched upon that period, because it was during that period that we had sustained the burthen of three wars; the two last of which were conducted on such a scale of expense as must, had it not been for the increase of our foreign commerce, have utterly undone the nation. My lords, he said, we are not yet undone; there is nothing in the circumstances of the country which should drive us, like merchants of bankrupt credit, to dangerous speculations; we yet stand high amongst the nations of the earth, attracting the admiration and exciting the envy of all Europe.

The most flourishing period of commerce which this country had ever seen, was about the year 1750; we had during other periods larger exports, but the balance of trade in our favour was then at the highest; it amounted to near five millions and an half a year; but if we had taken the annual average from the year 1740 to the year 1780, it would appear to be four millions; it would be somewhat less if we took the average up to the year 1782: but as the circumstances of the nation in the year 1781, were so singular, that the balance of trade was against this country, it would be just, he said, to assume four millions as our annual balance from the year 1740 to the conclusion of the last peace. This account of the sums we had annually gained by our foreign commerce he assumed as a fact established by the Custom-house books. He was quite aware that speculative men might object to the establishing the prosperity of a country by the balance of its trade, or to the judging of that balance by the Custom-house books; that was not a time or place to discuss those points, since all would allow that when long periods of time were taken together, it was perhaps the best method which could be used; and though it did not arrive at geometrical certainty, it was certain enough for a general conclusion.

Assuming, then, four millions as the

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annual average of foreign trade in our favour, the next inquiry was, from what countries this balance was drawn. He would not trouble their lordships with calculations, but with the results of calculations. He began with Holland. About the year 1745, our trade with Holland was at its height; it then gave us a balance of near two millions a year. It was not now so great as it had been formerly, but was still the greatest we had, and for the last 40 or 50 years, we had annually gained about 1,400,000*l.* He knew not by what injudicious policy it had happened, in one country or in both, that the friendly intercourse between Great Britain and Holland had been interrupted; sure he was, that it would be for the interest of both parties to see it speedily restored, for he had been taught to look upon the Republic of Holland as one of our strongest barriers against the ambition of France. Let France, he said, by intrigue or violence, by secret negociation, or open aggression, once become possessed of the marine of Holland, in addition to her own, and there would be an entire end of our history as a great, a wealthy, and, what was above all, a free people. And as to Holland, her councils must be infatuated to a great degree, if she did not perceive that she could have no protection against the selfish machinations of continental despotism, but under the shield of Britain.

He considered our trade with Germany as the next in importance, both with respect to its stability and extent, to our trade with Holland. This trade had not been subject to any great fluctuation from the beginning of the century; we had from that time cleared from it about 800,000*l.*, and for the last 40 or 50 years, above 700,000*l.* a year. After Holland and Germany, our next most beneficial trade was with Flanders. This trade was not great in the beginning of the century; since the year 1740, it might be estimated at 600,000*l.* a year; since the year 1770, it had been, on an average, 800,000*l.*; and in 1785, it was within 50,000*l.* of a million in our favour. It deserved all possible encouragement and protection. The balance of trade with Portugal was, at an average, for 30 years previous to the peace in 1763, 800,000*l.*; from the year 1740 to the present time, it had amounted to above 400,000*l.* a year; and though it had been some years less than that sum, yet in 1755 it exceeded it. Our trade with Spain for the last 40 years had given us near 400,000*l.* though at present, exclusive of the Newfoundland fish, it did not much exceed 150,000*l.* a year. With North America there had been a balance in our favour since the year 1740 of near 500,000*l.* a year.

In this short abstract he omitted the mention of Ireland, because, on account of the different modes of valuing her linens in the English and Irish Custom-house, there was a diversity of opinion as to the balance. He omitted the mention also of our trade to Africa, because the greatest part of it was a scandalous trade, repugnant to every principle of humanity and Christianity, and not to be justified by any arguments drawn from its utility. He omitted the mention of some other sources of trade from which we derived considerable advantage, because they only served to supply the drain which the nation experienced in its trade with Russia, Sweden, Turkey, &c. from which countries, though the trade was beneficial on account of our importing raw materials and exporting manufactures, yet the balance was against us.

Thus had he brought to their lordships recollection, the great and the ancient channels in which our commerce had flowed with uninterrupted success for half a century. From the vicissitudes incident to the current of all human affairs, a few obstructions had of late years been formed in some of these channels; but surely, he said, the wisdom of the nation would have been much better employed in removing these obstructions, in cleansing, in widening, in deepening, in fencing and securing these ancient channels, the advantages of which had been known to our fathers and ourselves, than in opening a new one, the rocks, and the shoals, and the whirlpools of which were unexplored; the dangers of which no mortal eye could foresee; the advantages of which were certainly speculative, might be delusive, and, if delusive, must be ruinous to our wealth, our consequence, our independence, to every thing we held dear, as men and as Englishmen. Hitherto we had prospered, greatly prospered in our commerce, without having had the French markets open to us, without having had our markets open to them; and though he did not say that this mutual interdiction of commerce had been the cause of our prosperity, yet he did say that we had prospered in commerce to a degree which had raised the nation to the

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highest pitch of strength and glory, without allowing the French the use of our markets, without our being allowed the use of theirs. This, he observed, was an argument founded on fact, on the experience of half a century and more; and it was not less clear in its principle than certain in its conclusion; and the conclusion was, that no advantages in speculation should induce us to risk advantages in possession. We had prospered, and we did prosper, without an open trade with France; why then should we risk a change of system? He felt this argument in all its force, and he had too much deference for their lordships' wisdom to add one word more in its support: if there was no other argument against the Treaty, this would be sufficient to make him reject it as a rash and dangerous measure.

In this short statement of our foreign trade which he had submitted to their lordships consideration his conclusions were derived from estimates previous to the last peace; he did not certainly know whether for the last five years our foreign commerce had been more or less flourishing than it had been for the forty preceding years: but he would state this dilemma. If the balance of our foreign trade has been stationary or increasing during the last five years, beyond the medium standard of four millions a year, where is the wisdom of interrupting its course by new arrangements? Why should we not leave it to its own successful operation? If, on the other hand, our balance had been decreasing, why should we risk its farther diminution by opening a trade with France? for it must have been by her rivalry in foreign markets, and by hers alone, of all the powers in Europe, that our foreign commerce had been diminished: it was not Germany, it was not Russia, it was not Spain, which had broken in on our foreign commerce; but it was France, and France alone; and if she had driven us out of foreign markets, what chance could we have of meeting her in her own?

He had said, that he would not assume the prohibition of our commerce with France as an efficient cause of our commercial greatness; two simultaneous events might exist together, without one of them being the cause of the other: but if it could be shown that our commerce did not flourish when the trade with France was open, as clearly as it had been shown that it did flourish when our trade with France was shut, men of plain understandings would suspect that there was some such connexion between the commercial prosperity of Great Britain and the interdiction of commerce with France, as subsisted between effect and cause. It was happy for us when we could illumine our prospects into futurity by the light of experience; he could appeal to various documents in proof of the pernicious tendency of an open trade with France; but, to spare time, he would confine himself to one. It was a proof which all their lordships were acquainted with; it was the preamble to an act of parliament passed in the time of Charles 2, prohibiting an open trade with France. The preamble was to this effect:—"Whereas it has been by long experience found,"—he begged their lordships attention to the two words, 'long experience,'—"that the importing French wines, &c. had much exhausted the treasure of the nation, lessened the value of the native commodities and manufactures thereof, and brought much detriment to this kingdom in general."

It would probably be said in answer to this, that the fact here referred to ought not to influence our present conduct; that the improvements which our manufactures had received since the reign of Charles 2 rendered an appeal to the experience of that time wholly nugatory, that we had then little manufactures of any kind except our woollen manufactures, which, by Colbert's policy, was loaded with a duty almost equivalent to a prohibition, and that we exported to France few articles of value except our woollens. All this was sooner said than proved. He begged leave to doubt the truth of the observation. He had carefully examined the account of the articles which were exported from this country to France above a century ago, when the trade was open; and so far from finding the fact to have been that we exported little except our woollens, he found, that we exported, exclusive of our woollens, above two hundred articles. We then exported of our manufactures, wrought pewter, wrought copper, iron wrought into hoops, nails, and other articles of hardware; we then exported tin, lead, alum, corn, coals, gunpowder, glass, earthen-ware, leather wrought and unwrought, and a variety of other articles, which it would be tedious to enumerate, and which did not then occur to his memory: so that he really saw

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no reason for presuming that the circumstances of the nation were so entirely changed, as to render a trade which, in the time of Charles 2. was thought highly detrimental to the kingdom, and by which we lost a million a year, safe and lucrative at present. Our manufactures were undoubtedly improved since that time, but so also were the manufactures of France. He could not think that there was good ground for admitting that the relative situation of the two countries was not much the same now that it was then; and, if it was the same, then was the argument from experience conclusive against the Treaty.

He had dwelt longer than he intended on this subject, and yet it was material to consider what a great people we were become without having had an open trade with France. It was material to consider how detrimental our ancestors esteemed that trade to have been before we consented to abandon a system of commerce which had been sanctioned by the experience of a century. He would sum up what he had observed on this point in the two following propositions: That to abandon a commercial system, by which we had risen to our present height in the scale of nations, was a measure, abstractedly considered, dangerous and impolitic, and not to be justified except by some urgent necessities of the state, which necessities did not at present exist: That to adopt a commercial system, which our ancestors, from long experience, had reprobated, as detrimental to the kingdom, was an unwise measure, and not to be justified except by a change in the relative situations of Great Britain and France; the certainty of which change having taken place since the time of Charles 2 had not been proved, or rendered highly probable.

The Duke of *Manchester* rose to exculpate himself from a charge, which, as he understood, had been imputed to him in another place, viz. that in negociating the Definitive Treaty of Peace at Paris in 1783, he had bound this country to the obligation of making a Commercial Treaty with France. The duke produced the Treaty, and justified himself from the imputation, by a discussion of the 18th article, and the declaration subjoined to the Treaty. He took notice of an inaccuracy in the translation of the verb 'pour travailler,' which in the English version of the 18th article is rendered 'to treat;' and in the version of the 18th article of the Preliminary Treaty 'to inquire into.' This incorrectness was an additional proof of the disadvantage, which, he had ever contended, it was for this country to make a Treaty in any language but her own. Having fully shown, that though he had been the peace-maker, he had in no sense bound down the country to make a Commercial Treaty with France, but merely to treat upon the subject, he proceeded to state his objection to the Commercial Treaty, on the ground of its endangering the loss of Portugal; for, he contended, that with her commerce we should lose her alliance. He also condemned the Treaty on a still more serious ground, inasmuch as it revived and admitted the existence of the Family Compact, which had never been allowed, and which, by the second article of the Treaty of Paris in 1763, had been virtually done away.

The Earl of *Carlisle* supported the motion, and condemned the Commercial Treaty, as tending to destroy our beneficial connexion with Portugal. He stated the advantage under which Mr. Eden would have treated, had Great Britain either previously concluded her negociation with Portugal, or previously broken with her entirely. In the latter case, the negociator might have said, "I come to you with an additional benefit; you must grant Great Britain an equivalent equal to its value." As the matter stood, we had run the risk of making up our differences with Portugal, or suffering the advantage of an unrivalled market to fall into the lap of France, without entitling ourselves to ask for any compensation whatever.

Lord *Porchester* observed, that the noble earl had forestalled him as to one of the points of objection that he entertained with regard to the mode of conduct pursued by Administration in respect to their negociation with France and Portugal. Nothing could, in his mind, be more obvious, than that they ought at all events to have brought matters to a termination with Portugal before they signed with France. From not having done so, they had put themselves into a singularly awkward predicament. They had reserved a right to do a favour to Portugal, which, if Portugal did not accept, we could not offer to any other power, and all the good consequences of Portugal refusing it would be so much gain for France. When we treated with France, we could only offer her an unequal market;

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a market in which her wines were to meet a competitor. Treating upon such terms, we could only expect terms from France proportionably beneficial; and having concluded the Treaty under such circumstances, we had left ourselves exposed to the danger of Portugal's refusal to accommodate with us, and then what became of our reserve? His lordship contended, that by such conduct we had put it in the power of France to buy the unrivalled and open British market of Portugal, and not of ourselves. He said, that report talked already of France's being in negociation with the Court of Lisbon, and spoke of the inconvenience, her taking the Brazil cotton from Portugal, would bring down on our boasted cotton manufacture.

Viscount *Stormont* supported the motion, and objected to the mode of proceeding that Government had adopted. He asked, if it was determined to give up the valuable trade of Portugal? If so, why not tell the woollen manufacturer of Yorkshire, that he was not to expect that any more of his woollens would go to the Portuguese market? That would be fair, and it would be plain dealing. It fell to his lot that day, in common with the noble lords who had preceded him, to stand up in defence of some old antiquated notions, which he had early imbibed, and in entertaining of which he verily believed that he should die. He then went through all the arguments in favour of a commercial connexion with Portugal, in preference to France, that had been urged by Mr. Fox in the other House of Parliament. He said, that the papers upon the table gave but an imperfect light into the Methuen Treaty and its advantages, and that consequently their lordships could form but an inadequate idea of either. He had seen papers himself, which had he known how to have described, so as to have brought them before that House, would have thrown much light upon the subject. Since the year 1703, our exports to Portugal had amounted to eighty millions, and our imports to forty, consequently the balance in our favour had been enormous. Ministers seemed determined that the advantage should cease. In that case, where would they direct our manufactures to be sent which no longer would go to Portugal? If it was said, Spain would take them, were they prepared to declare that the treaty with Spain was concluded, and that she was ready to open her arms to us, and to take our exports of woollens, of salt fish, of hardware, and of various other articles? He went at large into the argument advanced by Mr. Fox, that in the article of the Treaty, France had artfully drawn us in to recognize the 24th article of the Definitive Treaty, which by the second article of the Treaty of Paris in 1763 we had forced her to disavow. He read the 24th and 25th articles of the Family Compact, and contended, that by recognizing the first we had given life to the spirit of the second of the two articles. He expatiated on the different nature of our reserve in favour of Portugal, and France's reserve in favour of Spain, and showed that France had made it on condition with us, that if we kept our faith with an old ally, she should be allowed to put an article of the Family Compact in force that had never been recognized by us.—His lordship appealed to the gratitude of the country towards Portugal, and observed, that during the glorious war which preceded the peace of Paris in 1763, France had taken a resolution, which no man who walked the streets of Paris did not condemn, of forcing Portugal to desert her old ally, and join the Family Compact. What was on that occasion the conduct of the King of Portugal? Such as would have done honour to any country in any age. That monarch said, that "he had rather suffer the roof to be torn off his palace than act so disgraceful a part as to take up arms against his old ally." He begged their lordships would permit him to present them with a contrast to this picture. In the midst of peace with Great Britain, France, who till after the battle of Brandywine, held forth the most courtly language, and dealt in the most profuse assurances of amity and regard to this country, without a provocation of any kind whatsoever, pulled off the mask, plunged into the war, and sided with America against Great Britain. Happily her designs, covered as they had been with professions of attachment, had not been unknown to all the Administration of that day; they were suspected, and the nation had not been taken by surprise, when that declaration was issued by France, which they had all beheld. He meant not, by presenting this picture, to insinuate that the Treaty of Peace did not put an end to all resentment; it undoubtedly did, and it ought so to have done. Resentment was passion, and all passion was founded on weakness, and possessed an inherent tendency to rottenness and decay. Such principles

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ought not to regulate the conduct of nations; but principles immutable in their nature, and not depending upon such a precarious foundation. Though resentment, however, was at an end, recollection of such conduct was not obliged to abandon their lordships minds, nor could it be effaced from their memory.

Lord *Hawkesbury* observed, that he could not avoid concurring in what had fallen from a right reverend prelate, relative to the flourishing state of the commerce of this country. It was, he said, as he could inform their lordships upon good grounds, extremely flourishing at present, nearly as much so as it ever had been at any the most flattering and prosperous period; but flourishing as it was, considering the size of the public debt, it would have been an unpardonable neglect of duty in Government, had not an endeavour been made to open new markets to our manufactures, and to extend the trade of Great Britain as widely as possible. To what market could they look with such hopes of material advantage as the market of France? What could promise so much benefit to the commerce of the two countries as the reciprocal exchange of the commodities of both? It had been much rested on, that the trade of this country had not prospered greatly, when we were connected by a commercial treaty with France; and it had been asked, whether the state of this kingdom, and the state of the kingdom of France, was different at the time of passing the Treaty of Utrecht from what it was at present. To which he should answer, that the state of the manufactures and trade of this country bore no sort of comparison to the state of its manufactures and trade in 1713. The articles of the Treaty of Utrecht might have been very inexpedient for this country to have adopted when that treaty was made; but they were by no means so, under the present very different circumstances of our commerce. To open the market of France to British manufactures was an object extremely to be desired, and in effecting it, Government had shown themselves the best friends to the manufacturers of their country; and so, the event would, he had not the smallest doubt, very sufficiently prove and establish.

With regard to Portugal, before he proceeded particularly to take notice of the motion, he begged leave to premise, that he was a sincere well-wisher to the continuance of our connexion with that country under the Methuen Treaty. Much as he had reason to differ from other noble lords respecting the value and importance of our trade with Portugal, he nevertheless sincerely hoped that trade would continue, and had reason to expect that the present negociation would be terminated to the satisfaction of both countries. Having stated this, he proceeded, to mention the nature of our trade with Portugal for many years past, which, he said, he should ground on papers then upon the table of the House. He observed, that as the meaning of the Methuen Treaty had not been particularly the object of argument in the debate, it was unnecessary for him to go into that consideration, otherwise he could have shown their lordships what Mr. Methuen's opinion had been of the meaning of his own treaty. But, the better to see in what degree our trade with Portugal was affected by that Treaty, it would be necessary to inquire into the state of it before the Methuen Treaty had been concluded, and the state of it since. Custom-house books, he admitted, were not the best authorities, because they were, from various causes, imperfect and incorrect; but, in one view, they might be referred to as useful sources of information; he meant, where a comparative state of our trade with any country for several years together was wished to be seen. Upon referring to custom-house books, it would be seen that in the last century, when the Court of Portugal imposed a partial prohibition on our woollen trade (for entirely prohibited it had never been) between 250 and 300,000*l.* worth of woollen cloth was purchased of this country by Portugal. We at that time continued to take the wines of Portugal as before, till the year 1703, when Mr. Methuen had been sent to Lisbon to conclude the Treaty with the Portuguese court, by which that court bound itself to take our woollens at a certain low rate of duty. That Treaty was concluded, and it had been religiously adhered to on our part, though Portugal had in a variety of instances departed therefrom. Since the conclusion of that Treaty the amount of our exports to Portugal, and the balance of trade with that kingdom in our favour, had, from time to time, been extremely different. Lord Hawkesbury stated its amount in different periods, taking as one period, from the year 1730 to 1760, a period of thirty years; and as another, the

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period from 1772 to 1782; whence he made it appear, that it had lately decreased to less than half the sum to which it formerly amounted. Our export of woollens, in particular, it appeared from the papers on the table, did not amount to more than between 4 and 500,000*l.* a year; whereas in 1701 and 1702, when the import of British woollens laboured under partial prohibition and heavy duties, it appeared that Portugal took woollens of us to more than half the amount that she now took under the Methuen Treaty. So much, therefore, for the real state of our woollen-cloth exportation to Portugal.

But noble lords had complained that the Treaty with France ought not to have been concluded before the negociation with Portugal. In regard to that, it should be remembered, that, by the 18th article of the Definitive Treaty of Peace, signed by a noble duke (of Manchester) Great Britain was bound to endeavour to form arrangements of commerce with France in two years, and afterwards another year had been added. Was Government, therefore, to have neglected a compliance with the stipulation of the 18th article of the Definitive Treaty, because Portugal would not adjust the complaints of her breach of the Methuen Treaty? If ministers had tried again and again, and found that Portugal, in spite of all they could do or say, would not listen to reason, nor consent to comply with the Methuen Treaty, as to its obvious spirit and meaning, would it have been right for Government to have let pass the opportunity of concluding a treaty with France, which promised to prove highly advantageous to the British manufacturer, and to the commerce of the country? He adverted to the instances in which Portugal had failed in complying with the meaning of the Methuen Treaty. The case of Ireland, he said, was notorious. The woollens of Ireland had been admitted into Portugal in like manner as the British woollens had been admitted, till the period when Ireland was declared independent, and then it was that Portugal pretended that Ireland was not comprehended within the meaning of the Methuen Treaty. If he knew any thing of public law, no point was more clear than that when one sovereign prince made a commercial treaty with another, all the subjects, at least all the subjects in Europe of that sovereign prince, were comprehended in the treaty, and entitled to participate in its beneficial consequences. The distinction, therefore, with regard to Ireland, was an idle one, taken up upon weak, and persisted in upon unjustifiable grounds. Nor was that by any means the only cause of complaint, with regard to the Court of Portugal's not observing the Methuen Treaty. A book of rates had been published, imposing new and heavy duties on British woollens, and other goods imported into Portugal, and the levying of those duties was entrusted in the hands of a single Custom-house officer, and not in the hands of a minister; a circumstance attended with infinite inconvenience to our trade, and, in some instances, operating like a prohibition, as the dread of having the wanton caprice of the Custom-house officer in Portugal, above alluded to, exercised to their prejudice, deterred many British manufacturers from sending their goods to the Portuguese market.—Another distinction, which Portugal had also taken with regard to her construction of the Methuen Treaty, was peculiarly adverse to the trade of this country. The distinction was, that all newly-invented manufactures, since the year 1703, were not included in the Methuen Treaty, and were liable to pay whatever duties the Court of Portugal chose to levy upon them; this their lordships would see must necessarily bear hard upon all our cotton manufactory, almost every article of which was of recent invention, although it was already brought to such a state of perfection as to astonish the world. He declared, he was not only ready to do justice to Portugal, but willing to do her a favour; but he appealed to the sense of the House, whether it did not become Government to bring the Court of Portugal to an explanation, and oblige her to perform her observance of the Methuen Treaty, as faithfully as we did ours. The Commercial Treaty with France, he contended, was of itself a favour to Portugal, since, if she thought proper to adhere to the Methuen Treaty, she would derive a very considerable advantage from the article in regard to reducing the duty on her wines one-third lower than the duties on the wines of France, being carried into execution. He combated lord Stormont's argument relative to the 24th and 25th articles of the Family Compact, and contended that the 24th only stipulated that the French and Spaniards, in point of navigation and commerce, should reciprocally be entitled to all the privileges of subjects in the two countries, and conse-

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quently that it had in no sort affected us. With regard to the idea of France entering into a commercial treaty with Portugal, he considered it as too chimerical to be seriously dreaded. He asked, if any man in his senses imagined that France would take 12,000 tons of the wines of Portugal for her own consumption? A circumstance so unlikely to happen, surely, was not one that ought to alarm this country. He said, that he should oppose the motion, because, instead of weakening the hands of Government, and embarrassing the negociation pending with Portugal, he held it to be the duty of that House, as well as of the other, to strengthen the hands of the executive, and, by uniting on the present occasion, to hold out to Portugal a firm determination in the British Parliament, to support Administration in their just demand upon the Court of Lisbon, to comply with the spirit and meaning of the Methuen Treaty.

Lord *Porchester* appealed to the recollection of their lordships, whether he had talked of France being likely to take 12,000 tons of Portugal wine, or suggested any thing half so absurd as such a proposition. What he had remarked was, that by our having concluded a Treaty of commerce with France, before we had brought our negociation with Portugal to an end, we had put it in the power of Portugal to sell the open British market to France for commercial advantages, which France might, for such a bargain, be glad to give to Portugal. What! France, a country which made the best wines in Europe, take 12,000 tons of the worst wines any European country produced! The proposition was too ridiculous to be stated. His complaint was, that the Treaty with France, upon the face of it, made it the interest of France, by every species of influence and intrigue, to prevent Portugal from acceding to our demands upon her, and, in case of a failure of the negociation, France might have the open British market without any compensation being given to us for that advantage. But were there no other commercial advantages France could give to Portugal for such a benefit but taking wine? France might take all her Brazil cotton at her own price, and then our cotton manufactory was undone at once.

Lord *Hawkesbury* insisted upon it, that no other country but Great Britain could take 12,000 tons of Portugal wine; and that it was fair to state that, as one glaring instance of the improbability of the Court of Lisbon breaking with Great Britain. With regard to the Brazil cotton, this country was the best market for cotton in Europe, and as long as she continued to be so, there was no doubt but that the Brazil cotton would find its way to it, whether it came directly from Portugal or through France. As to the cotton manufactory of this country being likely to be ruined for want of a supply, he had no apprehension of that kind; for the growing of cotton was now the universal practice: in a very short time, therefore, in all probability, we should have a sufficient supply even from our own islands.

Viscount *Stormont* contended, that according to lord Hawkesbury's doctrine, the 18th article of the Definitive Treaty bound us, within two years, to make any treaty of commerce with France whatsoever, that France thought proper, let it be ever so disadvantageous to this country; whereas the true meaning of the article was, that the high contracting Powers should endeavour to treat about arrangements of commerce within the period named, and, therefore, if the endeavour had even been made without success, the good faith of both the high contracting Powers would have been kept. He illustrated this by mentioning, that by the terms of a treaty many years since concluded between Great Britain and France, both powers stipulated to send commissaries to Antwerp, to settle some particular and specific arrangements, which were not settled to this hour.

The Duke of *Norfolk* thought it his duty to offer a few remarks upon what had fallen in the course of the debate. He said that the whole of lord Hawkesbury's argument appeared to him calculated to depreciate the value of our trade with Portugal, and to prepare for a total abandonment of it. The noble lord had said, *if* ministers have tried to obtain a redress of grievances at the hands of the court of Lisbon in vain, *if* they have done so and so. That sort of language, he must remark, could not be regarded. The House knew of no grievances that existed, they had not heard of any infringement of the Methuen Treaty on the part of Portugal, but the old ground of grievance relative to Ireland, which, as far as could be understood, was given up by Portugal, though no such important communication had been made to the parliament of Ireland. Would ministers

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assert that grievances had existed, and that they had exerted themselves to obtain redress, without being able to obtain any? Would the noble lord, instead of saying, "*if* government had tried in vain to obtain satisfaction," take upon himself to assert, that they had so tried in vain, his word would be taken, and the motion need not be pressed; but as the case stood, the House had no information before them of one fact or the other. The noble marquis (of Buckingham) had laid the amount of the trade of Ireland out of the balance of the trade between Portugal and Great Britain, and had supposed him to differ in opinion from him, upon observing that he assumed a look of disapprobation at the moment. The fact was, he subscribed fully to the fairness of the argument of the noble marquis; but he could not help expressing some disgust by his countenance, when he heard a distinction taken between Great Britain and Ireland, in a moment when the trade of the empire was the subject of debate. He wished the interest of the two kingdoms to be always considered as inseparable. The duke expressed some surprise at the silence of ministers upon a topic so immediately relative to their own conduct. He was aware that the noble lord, who had risen that day to support the Treaty and justify ministers, had the chief burthen of government upon his shoulders, and was a noble lord of great weight and authority; but as he had himself told the House he was no minister, consequently he had no responsibility. The duke concluded with declaring it to be his confirmed opinion, that so far from the present motion tending to weaken the hands of Government, or embarrass the pending negociation with Portugal, it would give Government strength, and put them on advantage ground in their negociation with the Court of Lisbon.

The Marquis of *Carmarthen* said, that although he was undoubtedly responsible, when formally called upon, for any part of his conduct as a minister, yet he did not hold himself obliged to rise at the call of any individual lord, to answer questions or assign reasons for the conduct of Government, unless his own judgment convinced him that some answer ought to be given. He would not, at that late hour, go into a discussion of topics which had been so fully discussed, and, in his mind, so unanswerably argued by the noble lord near him (lord Hawkesbury), but would content himself, as a peer of parliament, with declaring his disapprobation of the motion, and appealing to the candour of the House, whether, pending a negociation, the agreeing to such a motion would not hold out to the world an ill-timed want of confidence in Administration, and of consequence throw difficulties in the way of bringing the Treaty with Portugal to a happy and an early issue.

The Earl of *Carlisle* declared, that he was glad to find that the death-like silence of ministers was at length broken. The noble marquis, however, had confined himself to the single point of the expediency of making the motion at that time, without adducing one argument to show, why it would not be wise to conclude the business with the Court of Lisbon, before they carried the Treaty with France into effect. He animadverted on lord Hawkesbury's speech, and said, an unfortunate "we" had caught his ear, which induced him to imagine, that, although the noble lord had taken pains in the middle of his speech to tell them "he was no minister," yet he conceived himself to be in equal power, just as some men fancied when they had one foot in the stirrup that they were seated on the saddle.

The question being put by the Lord Chancellor, with the omission of the word 'perpetual,' the House divided: Contents, 24; Proxies, 2—26; Non-Contents, 72; Proxies, 9—81.

Debate in the Lords on the Treaty of Commerce with France.] March 1. Viscount *Stormont* rose and observed, that he meant to call their lordships attention to a single point of form; and that was their mode of proceeding in a business of as much importance as ever called for the consideration of that House. The Commons had passed certain Resolutions founded on the Commercial Treaty with France, and had sent them to that House with an Address drawn up in such particular and precise terms as to pledge Parliament with respect to their future conduct in the subsequent stages of the business. Such a mode of proceeding was not warranted by any precedent, as far as he had been able to discover. Whenever both Houses joined in an address to the Throne, upon a subject, the discussion of which was not concluded in either House, it had always been customary to draw that address generally, and so as not in any sort to preclude

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the freedom of future debate. He knew no precedent for such a proceeding as the present. He had indeed, out of doors, heard of the noble proceeding adopted with regard to the Irish propositions; but, that their lordships well knew had been extremely different. In that case, the two Parliaments of Great Britain and Ireland, being the negociators, the resolutions and the evidence on which they proceeded, had been sent up from the House of Commons, and their lordships were left at full liberty to discuss the resolutions, to examine witnesses, and to proceed with all necessary caution; and at length the two Houses had joined in an Address to the Crown, stating to what length they had proceeded, promising to pass such bills as to them should seem necessary, and desiring the Crown, as the medium between the two Parliaments, to cause the resolutions to be laid before the Parliament of Ireland. How widely different had been the proceeding in the present case! Why it had been different, he was at a loss to imagine, since there was a precedent on the Journals, which seemed to him the precise one which ought to have been followed. He meant the precedent of the proceeding upon the Treaty of Utrecht. He stated in what mode the House had then conducted themselves, and drew a character of lord Bolingbroke, the minister in 1713. At that time, an administration upheld by as powerful a faction as ever governed this country, were in office. The minister early in life gave proof of uncommon ability, and commanding eloquence. By the powers of his oratory, he could gloss over the dark side of a picture, and cover its deformity so as to deceive most men, and mislead many. He was of a temper vehement and overbearing, and his passion often inclined him to carry all before him; but still he had, in that instance, shown so much respect for the constitution, that with all his personal authority, with all the influence of his ability, he ventured not to adopt a proceeding like the present. Viscount Stormont contended, that the House could not bind itself by any address, so as to abandon the free exercise of its legislative capacity; and as it was necessary to prevent the proceeding proposed to be adopted from misleading posterity, he moved, "That no address to the Throne, and no resolution of this House, can bind this House in its legislative capacity, or bar the subject's right of petitioning this House upon any bill depending in Parliament, though such bill be founded upon and conformable to resolutions to which this House has previously agreed."

The Marquis of *Buckingham* said, that he concurred most fully with the noble viscount that the House could not bind itself by any address so as to deprive itself of the full exercise of its legislative capacity, or preclude itself from a right of voting, as to its wisdom should seem meet, upon any future bill or bills, which might be brought in, as a consequence of the Resolutions then about to be submitted to their lordships' consideration. As this was a proposition which no noble lord, he believed, had the smallest inclination to controvert, he saw no reason for their voting truism, and therefore would move the previous question.

Viscount *Stormont* pressed the House to adopt his motion, in order that posterity might learn, that their lordships had exerted that caution in guarding against the establishment of a precedent, which, upon the face of it, was equally new and dangerous to the constitution.

The Lord Chancellor put the question, "That the order of the day be now read," which operating as a previous question, was carried. The order of the day was accordingly read; and the House having resolved itself into a committee of the whole House, lord Scarsdale in the chair, to which the Resolutions and Address of the Commons on the Treaty of Commerce and Navigation with France were referred,

The Marquis of *Buckingham* rose, and began with bespeaking the patience of the House, while he proceeded to a detail which, he said, must necessarily run into a considerable length. He proceeded to lay it down as an incontrovertible fact, that it had been the ancient and unimterrupted practice of Great Britain to be connected by a commercial treaty with France, unless when that practice had been broken in upon by intervening wars. He took up the history of our treaties with France in the middle of the last century, and traced it to the Treaty of Utrecht, marking all the peculiar circumstances which had occasionally occurred. He next recited the history of the Treaty of Utrecht, and the event that followed with respect to the rejection of the 8th and 9th articles of that Treaty. He stated, that sir Thomas Hanmer had been the member who moved for the rejection of

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those articles; but, so conscious was he of the general good tendency of the whole of the Treaty of Utrecht, those two articles excepted, that he also moved for an Address to the Queen, thanking her for having made the Treaty, and desiring that means might be immediately adopted for carrying all of it, but the two rejected articles, into full effect.* Commissioners had been appointed for that purpose by the two Courts; papers had been exchanged by them accordingly; and the duke of Bedford, when he concluded the Treaty of Paris in 1763, had proceeded upon the ground of those events, and formed his treaty accordingly. He mentioned the preliminary articles of peace of 1783, the definitive treaty of the same year, and the nature of the declaration signed by the duke of Manchester. He contended, that the Government were bound, in some degree, to negociate a treaty of commerce with France, and he asserted that a more beneficial treaty than the present could not have been made. He entered into a detail of the tariff, and spoke of the obvious advantages that must result from our having a new market consisting of 24 millions of customers open to us, considering the evident superiority of our manufactures. In some respects, undoubtedly, France would have the advantage, because their lordships must perceive it would have been impossible to have made a treaty, in consequence of which some advantages must not be given to that contracting party, at whose hands we had received so many; in the glass manufactory, he believed, in respect to the large plate glass, France would successfully rival us; but then, in our cotton manufactory, in our pottery, and our hardware, we should have the most decisive superiority. He appealed to the common sense of the House whether France, importing into England her produce, all of them luxuries, and we, exporting to France our manufactures, most of them necessaries, we must not have the advantage in a considerable degree? Families in high life, persons of fortune, and in the superior stations, would consume the imports from France; on the contrary, our manufactures would equally supply the necessities of all descriptions in France, from the prince to the peasant. While our more elegant articles would adorn the persons of the great, our buttons would be worn in the sleeves of the lower order of the people, and the labourer in France would purchase an English knife to cut his dinner with. The marquis next touched on the Treaty with Portugal; and contended, that if it should unfortunately be broken off, we should be under no distress in regard to the article of cotton, respecting which so much had been said. Our consumption was 16 millions of pounds annually, and above half that quantity was supplied already from our own colonies; and so much had lately been planted, that in a very short time we should be able to supply ourselves completely, which would now have been the case, had not the island of Tortola been torn from us at the late peace; not that he meant to blame that peace, for his opinion of it was well known: he should ever contend that it had been the salvation of the country; but he mentioned Tortola merely as the island that had been unfortunately the sacrifice, and some sacrifice their lordships well knew it was necessary to make. The marquis now moved the first Resolution, viz. "That it appears to be expedient, that all articles of the growth, produce, or manufacture of the European dominions of the French King, which are not specified in the sixth article of the Treaty of Navigation and Commerce between his Britannic Majesty and the Most Christian King, signed at Versailles the 26th of September 1786, shall be imported in this kingdom on payment of duties as low as any which shall be payable on the importation of the like articles from any other European nation."

The Earl of *Scarborough* spoke against the Treaty, and declared that its boasted advantages rather inclined him to doubt of the sincerity of the Court of France. 'Timeo Danaos, et dona ferentes' was the motto he should always apply to gifts from such a quarter. French manners, French commerce, and French policy, upon the experience of past perfidy, he should ever hold in detestation and abhorrence.

The Bishop of *Landaff* (Dr. Watson) said, he had yesterday expatiated a little beyond the immediate subject of the then debate; he had done it with design, and his design was, that he might on that day—one of the most important that the nation had ever seen—take up less of that time which their lordships could employ so much more to their satisfaction in listening to others than to him. With the same view he

* See Vol. vi. p. 1223.

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would not recur to what he had yesterday advanced, though he must take the liberty of differing from the noble marquis with respect to the importance of our trade with France in iron and other articles in the time of Charles 2; and he thought it by no means proved, that France had made so little improvement in her manufactures whilst we had made so much in ours, as to render the trade now decidedly safe, which was then clearly dangerous: but he would not dwell on this point, though it would admit ample discussion; he would take new ground, he would proceed to examine the motives which had induced his Majesty's ministers to negociate a treaty with France, and to abandon the policy of their ancestors. But when he spoke of examining the motives, he must be understood to mean only the open and avowed motives; there might be secret ones of more weight and authority than any which he had heard spoken of; and when he considered the enlarged views, the profound policy, the retrospective wisdom, and the prospective sagacity which always ought, and usually did pervade the conduct of princes, and which, he trusted, had on this occasion actuated the Cabinet of his Majesty—he was persuaded that there were such—he was disposed to think that the framers of this Treaty had a moral certainty that the French, in consideration of it, would never more, either directly or indirectly, disturb us in our possessions in Asia; that they would not by underhand negociation attempt to rob us of every commercial advantage, every political alliance we had in Europe; that they would not, either secretly or openly, foment dissentions in Ireland. He trusted, that his Majesty's ministers had a clear foresight, that in consequence of this Treaty our navy would not only not be diminished—that was not enough—but that it would be increased; nor was that enough, but that it would be increased in a higher proportion than the navy of France would be increased by our becoming the carriers, in a great measure, of the produce and manufactures of both countries. Could this point be proved to his satisfaction, it would go a great way towards lessening his apprehensions of the Treaty. He trusted that the persons concerned in forming the Treaty, had the strongest expectations that the introduction of our manufactures into France at this critical period would be so far from becoming an incentive to French industry, that it would immediately check and in a short time annihilate their rising manufactures of cotton, cutlery, hardware, and pottery, in which they were so ambitious to rival us. These, and motives such as these, may have been amongst the primary ones which incited his Majesty's ministers to negociate a treaty with France; but as to the ostensible ones, he could see but two of any consequence: one was, a prospect of continuing the peace by opening a commercial intercourse between the two kingdoms; another was, a prospect of augmenting our revenue by extending our trade.

Would to God, my lords, he said, that the spirit of the Christian religion would exert its influence over the hearts of individuals in their public capacity as much as, we trust, it does over their conduct in private life; then would revenge, avarice, and ambition, which have fattened the earth with the blood of her children, be banished from the councils of princes, and there would be no more war. The time will come—the prophet hath said it, and I believe it—the time will assuredly come, when nation, literally speaking, shall no longer lift up hand against nation. No man will rejoice, my lords, more than I shall to see the time when peace shall depend on an obedience to the benevolent principles of the gospel: but whilst it is simply made to depend on the selfish prospects of commercial policy, I can have no confidence in its continuance; it will not last a moment longer than till it is the interest, real or apparent, of France to break it.

Had we forgotten—no length of time would ever obliterate the circumstance from his memory, it even yet rankled in his recollection;—had we not heard, during the progress of the American war, every annual speech from the throne, every monthly dispatch from our minister at Paris (of whose ability to detect hypocrisy, had it been possible to detect it, no one could doubt) announced to this honest, unsuspecting nation the peaceable disposition of the Cabinet at Versailles: and yet, when the long-wished-for auspicious moment arrived, in which she could most distress us, most benefit herself, with what bold and barefaced perfidy did she break the peace! And shall we even now, whilst we are yet smarting from the consequences of her treachery, become a second time the good easy dupes of her duplicity? It was not a trifling lustration

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that would in his mind expiate the perfidy of French counsels. He admired the French as an intelligent and an ingenious people; he loved them as an agreeable and polite people: but he dreaded them as a great, he suspected them as a negociating, and he detested them as an ambitious people. Let no man, he said, talk to me of exchanging ancient prejudices for liberal sentiments. He hoped he did not want more than others did, liberality of sentiment in private life: but liberality of sentiment was a complex idea, the component parts of which, when applied to great nations, he could not unfold; before he could begin to think liberally of France, he must learn to forget America. He would not part with his prejudices against France; they were prejudices which had for ages preserved the independence and liberty of his country, and he would carry them to his grave with him. He did not say that France was the natural enemy of Great Britain, but he said more—he believed her to be the political enemy of the liberties of every state in Europe; in a word, he could not trust her. He was sorry to have occasion to use such plain language; but, not to suspect where you had been deceived, was to act with the credulity of a child; not to take warning from experience, was to act with an audacious temerity, which no prospect of advantage could justify. He meant to say on this point, that how zealously soever he wished, as a man and a Christian, for the peace of the world, the prospect of a continuance of the peace with France did not operate on his mind with any force whatever as a reason for approving the Commercial Treaty; there might or there might not be other reasons for approving it, but this was none. We are at peace, both nations are sick of war; there wants not a commercial treaty to preserve the peace; or if there did, it would be inefficacious to the end, since every interest of France, her landed, manufacturing, and commercial interest, would be made to stoop to her ambition: this commercial regulation was an opiate by which she wished to lull this nation into a torpid state of confidential security until she acquired strength, by cajoling some, by intimidating other powers in Europe, to strike the blow she had never ceased aiming at this country.

He came, he said, to the consideration of the other ostensible motive for this Treaty—the prospect of increasing the revenue by extending the trade of the country. There was an argument in favour of this point, which in the opinion of many would be conclusive; it was the approbation of the manufacturing interest of this country. He said approbation—for when the manufacturers were silent, we might be sure they were pleased—'tacent, satis laudant;'—this argument, he doubted not, would be used with great force by the favourers of this Treaty; the silence of the manufacturers would on this occasion have a more prevailing eloquence than attended their speech on a former occasion. It had been remarked, that in theological controversy the opinions of the ancient fathers of the Church were treated with respect or contempt, according as they happened to make for or against the party: and the opinions of manufacturers on political subjects seemed to meet with a similar fate; for when they made for us, they were highly extolled; when they made against us, they were treated with ridicule and neglect.

No man could have a greater respect for our manufacturers, many of whom he had long personally known, than he had. He made no question they were able to explain the consistency of their conduct on this occasion, compared with the line they followed when the Irish propositions were before parliament; but to his apprehension there was scarcely a single objection to the Irish propositions which did not apply with equal or greater force to this Treaty. He would not enter into the detail, but he had read the evidence with great attention which the manufacturers delivered at their lordships bar; and he was convinced, that all that was said concerning cheapness of labour, price of raw materials, lightness of taxation, exemption from duties, inefficacy of countervailing duties, facility of smuggling, and other points, was as applicable to the Commercial Treaty as it was to the Irish propositions; and every one must acknowledge, that the industry, ingenuity, and capital of France was more dangerous to the manufactures of this country than the ingenuity, industry, and capital of Ireland could have been. There was one difference, he owned, between the two countries; our manufacturers were in possession of the Irish market; they could derive no benefit from the Irish propositions, and that was a good reason why they should run no risk; they are not in possession of the French market, and that is a reason why they should run a risk to

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obtain it. The speculation of pouring at first a large quantity of goods into France was a bewitching speculation of profit; but it did in no degree whatever invalidate the danger of future competition as established by their own evidence.

But leaving the consistency of the manufacturers to be explained by themselves, it was necessary that he should explain his own. He was a friend to the Irish propositions, and he was an enemy to the Commercial Treaty. Where was the consistency of conduct? Clearly in this, that France and Ireland stand in very different relations to this country. He was a friend to the Irish propositions, not from a full persuasion that the arrangements which they held out would not in many instances have interfered with the manufacturing interests of Great Britain, but from a conviction that the wealth, strength, dignity, and consequence of Ireland would primarily or ultimately be the wealth, strength, dignity, and consequence of Great Britain. He was an enemy to this Treaty from a full persuasion, that it would in many instances interfere with the manufacturing interests of Great Britain, and from a caution that the wealth of France was the poverty of Britain, its strength our weakness, its dignity our disgrace. Aggrandize Ireland even at your own risk, still it is the empire which is made rich and powerful; aggrandize France at the risk of your disadvantage, and you accelerate the ruin of the empire.

The most favourable argument for the Treaty (though it was an argument of little force when compared with the unfavourable political tendency of the Treaty) was the probability of our trade being greatly extended, and this probability was thought to be converted into a certainty by the acquiescence of the manufacturers. He did not mean to question the judgment of the manufacturers; it was far superior to his own. He did not mean to say that they were actuated by present prospects of gain, and were unsolicitous about future contingent dangers to the state, though, if that was the principle of their conduct, he thought, as manufacturers, they would be justified; for it was out of their province to become guardians of the nation's welfare: but, waving all this, he would submit one argument to the judgment of the House, and he trusted it would be considered as an argument of great weight, inasmuch as it was derived from the information of the manufacturers themselves. One of the most intelligent and every way most respectable manufacturers in this kingdom, delivered it as his decided opinion at their lordships bar, that it was by our machines, presses, dies, and tools, that the British manufacturers were enabled to baffle all competition with foreign markets, notwithstanding every disadvantage of high price of labour, high taxes, and the other contingent burthens, under which our manufactures laboured, and that in proportion as these tools were exported or copied into foreign countries, our exports of manufactures to those countries would decrease. The Legislature, in conformity to this opinion, enacted a law prohibiting the exportation of tools: now, he had it on the very best authority, that, notwithstanding this law, every tool used at Sheffield, Birmingham, and Manchester, might be seen in a public building at Paris, where they were deposited for the inspection of their workmen. The person from whom he had this intelligence was one of the most expert manufacturers at Birmingham, and one of the best judges of tools in the world, and he acknowledged with regret, that the intention of the act he had mentioned was wholly frustrated. Thus, then, stands the argument; in proportion as our tools are copied into foreign countries, our exports to those countries must decrease. France has our tools; the conclusion is, she will not take our manufactures. The premises were derived from undoubted testimony, and the conclusion was not illogical.

The value of our iron exports was, according to one calculation, a tenth, according to another, a ninth part of the value of all the other exports of the country, and it was with concern he mentioned it, in this manufactory of iron the French were at that moment making the greatest exertions. They cast pig iron in Burgundy; and one of our own countrymen, who was related to one of the most distinguished iron masters in England, was said to be associated with the French in that business. They know how to cast cylinders, and to bore them for steam engines, to the full as well as we did. Their cutlery at Moulins was brought to so great perfection, that it equalled the Sheffield cutlery in neatness and taste, and excelled in cheapness; they had large cutlery manufactories, in which they had several patterns not known at Birmingham, and some of them more elegant than any there.

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The importation of our hardware into France, which was looked upon as one of the most favourite features of the Treaty, would not, he apprehended, be at present to any great extent; it would soon be nothing; and ere long France, it was to be feared, would import more into this country.

But it may be thought (he had heard it observed), that our great plenty of pit-coal is of itself a circumstance so much in our favour, that though the French might have our tools, and be desirous of emulating us in all our manufactures, they would not be able to stand a competition with us, notwithstanding the cheapness of their labour. This, he said, was an unsafe foundation to build on. No nation ever began to look for fuel under ground, till their woods were gone; and whoever had compared the strata of earth in France with those where coal was found in England (for it was not found every where with us; he did not know whether it had ever been found under chalk) could entertain no doubt of coal existing as plentifully in France as in England. But if this should be thought the mere reverie of a philosopher, he would substantiate the conjecture by an authority which none of their lordships who happened to be acquainted with the works of M. Haller would think fit to deny. This gentleman published, in 1750, two volumes in 4to on mining; and in the preface to the first volume he had this observation, which he would give their lordships in English, for he had not kept commerce enough with France to speak their language as a Parisian:—"We find in almost all the provinces of this kingdom mines of pit-coal, the coal of which is at least as good as that of England and Scotland, in favour of which men were so much prepossessed." Here is a testimony of the most unexceptionable kind, and it is confirmed by fact. The French use coal in the various fabrics which are established in Normandy, in Burgundy, in Languedoc, and in other places; he believed they had lately begun to char it, and to use it in that state in the fabrics at Paris. He had been told that their coal was pyritous and slaty; it was not all so, and that was a fault which would probably mend as they dug deeper. They imported from this country about 12,000 chaldron a year, and the importation would increase till their coal-pits got established.

He had touched upon the exertions of the French in the iron manufactory, and as to the glass manufactory, that, it was allowed on all hands, must be given up, or the excise taken off. Germany, France, and Ireland, already undersold us in glass at foreign markets. He did not agree with the noble marquis in thinking that our plate-glass would alone be in danger. They would import common glass. He would give their lordships an instance which had come to his knowledge, of the great activity of the French in the most difficult part of this manufacture, in cutting glass. They had but very lately, within these two or three years, made any serious attempts in this business, and he had seen a cut-glass cup, bought at a retail shop in Paris, last summer, for 2*s.* 11*d.* in which the workmanship was exceedingly good. One of our best London workmen was ordered, by one of the first cut-glass manufacturers in the kingdom, to cut a similar cup; he did so; and he charged 5*s.* for the workmanship alone. What the low price of labour will do in other instances, may be gathered from what it has done in this. It was quite a mistake to suppose that the French either wanted ingenuity or industry. It was not many years ago since the Swiss printed linens became so fashionable in Paris, that no duties or prohibition could keep them out of that city; the manufacturers of printed linens in Paris foresaw the ruin of their fabric, unless they exerted themselves; they did exert themselves, and they now employ the poor people in that branch, and make as beautiful printed linens as any in the world. He could give many other instances of French enterprise and activity; but it would be needless; no one considered liberally and intelligently how manufacturing skill is transferred by various accidents from one country to another, but must be alarmed for our home market. Our coarse woollens would be secure, till the French learnt how to manage their sheep properly; but our superfines would be beat out of our home market, or our manufacturers, instead of a mixture of Spanish and English wool, would be obliged to use nothing but Spanish. He had seen Spanish wool manufactured in England to the amount of four guineas a yard; but when our cloths should be made as fine as the French cloths are, they would be sold dearer. He thought not much of their dies; he had seen as good black and as good scarlet died in England as were ever

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died in France; but it was the hardness of our cloths, compared with the French cloths, which hindered them from taking so good a die. Great quantities of woollens were smuggled into both countries at 14*l.* per cent.; the duty of 12*l.* per cent. would prevent smuggling; but he had no great expectation that France would be a much greater market than it was at present for our woollens. At the Treaty of Utrecht our woollens were prohibited: the French woollen manufactory was then in its infancy; since the year 1760 it has been in very high perfection; it feared not now a competition with the English manufactory; and if there had been the least apprehension for its safety, the French ministry would never have suffered the importation of our woollens upon such an easy duty; they would sedulously have protected a manufactory which had been raised at an immense expense, by government, for above a century. We had nothing to hope from the extension of our woollen trade; they might take a few more coarse goods from us, in order to mix them with their own for the American market, and this, he thought, would be a practice they would follow, and much to our detriment, in other articles besides our woollens.

But it would be endless, he said, to enter into a detail of all the probable disadvantages of this Treaty; and he rather wished to avoid it, from knowing that we could come to no certainty on the subject: for, though it was a fair mode of arguing to oppose conjecture to conjecture, speculative advantages to speculative advantages; though it might be the most satisfactory mode that the subject would admit, yet it was not a mode he was fond of. It was the misfortune of this Treaty that we could know nothing of it but from experiment, and in making the experiment we may be undone.

But there was a disadvantage in it which he wished he could call speculative—the loss which the revenue would sustain by a diminution of the duties on wines, &c. It had, however, been calculated, he thought properly, to amount to 300,000*l.* a year. There was but one article in which, from the operation of the Treaty, this sum could be made up, and, as he had not heard it insisted on, his Majesty's ministers were welcome to the observation, for he had nothing in view but truth. The calculation had proceeded on the supposition that no more wine would be drunk when the duties were lowered than were drunk at present. This supposition he thought erroneous. He was convinced that for every two pipes of port which should not be imported, three pipes at least of claret would be imported, and the additional duty on that additional pipe would compensate the loss arising from the diminution of duty on the quantity now imported. This was proved by what had happened within these few years in Ireland. When the Irish drank little wine except claret, they consumed near a third more wine than when their Portugal importation was equal to their French one. He thought this country consumed nearer 30 than 20,000 tons of wine in a year, home-brewed and foreign-brewed; and, if but half of what was consumed should be brought from France, half a million of our money or of our manufactures, must be sent to pay for that article; and he thought they were more likely to take our money than our manufactures; and he had rather our money was sent to any nation in Europe than to France.

Before he sat down he would take notice of two arguments which were generally adduced in favour of the Treaty. It was said, then, that as France is supposed to contain twenty-four million of people, and Britain not above eight million, we shall open to ourselves a market three times as great as the French will open to themselves; and that this was a solid advantage in our favour. He had been told, that this was the very argument by which the French ministry endeavoured to prove to us simple Englishmen, the great favour that France was about to do us, and their lordships had just heard it adopted by a noble marquis: but, let it be adopted by whom it might, he could not adopt it; it had a specious appearance, but no foundation; to give it any weight, it should be shown, which had never yet been done, that these 24 millions of people had as much occasion for our commodities as we had for theirs, and as much money to lay out in purchasing them as we had to lay out in purchasing theirs. It should be shown that they would as certainly clothe themselves with our woollens and cottons as we should drink their wines and brandies; it was not the number of people, but the number of purchasers that constituted a good market.

Another argument in favour of the Treaty was built on a foundation still more unsafe. It was said, that our resources

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will be increased by an extension of our commerce in so high a degree, that, in case of a future rupture, we shall be more able than ever we were to contend with France. This argument was of no possible importance, unless it could be shown that the resources of France will not be increased in so high a rate as ours will be; and this has not, and perhaps cannot be shown: but without inquiring how, from the operation of the Treaty, the 300,000*l.* which he before mentioned as a defalcation in the customs, could be restored; without examining whether, after this sum was made up, the additional increase of our customs would be greater than the additional increase of the French customs; without discussing the probability of the balance of our trade with France being in our favour now, which the last time it was open between the two countries was so prodigiously against us—waving all the minutiæ of speculative calculation, which nothing but the event could justify on either side, he thought there was an argument, by which it might be shown that this Treaty would contribute to increase the resources of France in a far higher ratio than it would increase our own; and the argument was this—England, out of her eight million of inhabitants, employs five million in her manufactures; (it was of no consequence to his conclusion whether it was four or five). By the industry and ingenuity of these manufacturers, she had not only supplied her own markets, but had constantly drawn from the other parts of the world those sums by which she had acquired her present wealth and strength. When France became a manufacturing country, of her 24 million of inhabitants, she would employ 15 million in manufactures, and thus by applying the same means to acquire wealth and strength that we had done, she would acquire three times as much; and therefore he looked upon this Treaty, which incited the French nation to become a manufacturing nation, as contributing to increase her resources in a far higher proportion than it would increase our own, and, on that account, he thought it was founded on a very short-sighted policy. But it might be urged, how does the present Treaty second the commercial intentions of France? Many ways; it seconded the intentions of France in opening to her our home market, which was the richest market in Europe; it seconded her intentions in exciting her own people to a degree of industry and ingenuity, in order to support their present fabrics; and thus was she spurred to her purpose, both by the fear of loss, and the prospect of advantage: but, above all, it seconded her intentions, by giving her every opportunity she could wish for, of acquiring that manufacturing skill, by which we at present surpassed her and all the world. This, he said, was an injury which we should certainly sustain; and it was an injury of such an immense magnitude, that it was not a few hundred thousand pounds a year, it was not half a million, or a whole million, or any sum which the most sanguine financier could expect from the Treaty, in addition to our customs, which could in any degree compensate it. If France shall ever cultivate manufactures and commerce in the same degree that we have done, and that we do, our ruin will be inevitable. There was no policy so good as that which would prevent her from doing so—none so pernicious as that which facilitated her endeavours, and stimulated her exertions in that way, and this Treaty did both in a very alarming degree.

He had fatigued, he said, the patience of the House; he would trespass no farther than to say, that he was not conscious of having endeavoured to give an undue weight to any thing he had advanced; many, many topics he had, for the sake of brevity, entirely omitted. He had spoken his real opinion as an honest man. His spirit had ever been too high to enlist himself under the banners of administration, or of any opposition; he would always follow the dictates of his own judgment; and, in cases where his abilities would not enable him to form a judgment, he would not vote. Any other conduct, he thought, would be a profanation of the holy habit which he then wore. On the present occasion, his judgment was full, clear, decided, positive against the Treaty. If the event of things should prove this judgment to have been erroneous, he would be the first to rejoice at his mistake; the first to ridicule, in the future prosperity of his country, the present imbecility of his reasoning.

Lord *Walsingham* observed, that the right rev. prelate had himself answered his main objection, the argument of the deficiency of 300,000*l.* in the customs, by stating that it would be made up by the duty on French wines alone. That being granted, it must necessarily follow that a large addition of revenue must re-

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sult from other articles of import. The noble marquis who opened the debate had gone so fully and so ably into the whole of the argument, that he had superseded the necessity for him to say much. The noble marquis, however, having cleared the ground for him, he would take the liberty of stating a few particulars, which would, he conceived, fully establish the very great advantages which must necessarily result from the Treaty. His lordship then went through the whole Treaty, accompanying what he said, with historical remarks and illustrations.

Lord *Fortescue* supported the Treaty as a measure obviously beneficial to the country, and in no respect more so, than in restoring to Great Britain a large description of subjects who had long been estranged from it, and who composed a numerous body of men, who had, for years lived by carrying on the business of smuggling, and who having been bred to the sea, might, after the Treaty was carried into effect, earn their living with credit to themselves and advantage to their country.

The Earl of *Hopetoun* gave his reasons for supporting the Treaty, and declared, that he hoped the consequences would be lasting amity with France, whom he never wished Great Britain should have occasion to meet in the field again, sword in hand. He declared, that he should be ready to vote the thanks of the House to ministers, for having made a Treaty so beneficial to their country.

Viscount *Stormont* spoke against the Treaty, and adduced various new arguments. Adverting to the excellence, ingenuity, and skill of our manufactures, he confessed that he laboured under an obvious disadvantage. He spoke *of* the Athenians *to* the Athenians, and undoubtedly as the House participated in the fame of British manufacturers, they liked to hear them praised. He observed, that as his sentiments on the subject would not, he feared, meet the approbation of the majority, he would shelter himself under a great name, that of lord Bacon, who, in his history of Henry 7, said, that that prince "first bent the policy of this country from profit to power." This was a maxim he wished to impress on their lordships' minds. If we sacrificed to profit, and lost sight of power, we mistook our situation, and must forego all pretensions to being deemed a great nation, the holders of the balance of power in Europe. He contrasted our characteristic with that of Holland. The avowed object of that republic was profit solely. We should be senseless ideots if we aimed at so abject an attainment. His lordship said, he would speak to the Treaty in its two different points of view, as a commercial treaty, and as a treaty of navigation; and first to the commercial objects. He urged a variety of reasons why he thought the advantages precarious. With regard to the cotton manufactory, he stated, that there were already two of Arkwright's machines erected near Rouen. There was little doubt, therefore, but the French might, in a short time, rival us in that manufacture of which we now thought so much. In regard to the tendency of the Treaty in respect to our navigation, he pointed out the 40th article, that respecting the neutral code, as highly objectionable. He also mentioned the articles allowing the carrying of ships' masts, yards, &c. as likely to cripple this nation considerably in future wars. After going through the Treaty he turned his argument from the measure to the conduct of the minister. When he first came into office, the eyes of all Europe had been upon him. Public expectation was greatly excited, because his early display of uncommon talents induced mankind to look for much indeed. It was natural to regard young men, whose first outset in life had been splendid, as objects of considerable expectation. This was the case with respect to the present minister. All the world had heard of his extraordinary bursting forth into a political situation, rarely intrusted in the hands of youth, and all the world hoped that the fruit would have proved equal to the promise of the blossom. What was the result? Inquire in any foreign court, and the answer would be, The minister of England is entering into a close alliance with France; with France, the natural rival, the ancient foe to the greatness of this country, who, amidst fluctuating administrations, had distinguished herself by uniformity of counsels, and uniformity of enmity to Great Britain! Let noble lords weigh the words, and they would be judges, what all Europe thought of the British minister. His lordship urged a variety of other arguments against the Treaty, and instanced the fortifications at Cherbourg, and the Treaty of France with America and Russia, as not very striking indications of the sincerity of their professions towards this country.

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Lord *Hawkesbury* began by taking notice of viscount Stormont's quotation from lord Bacon, and said that he was at a loss to imagine where he was to look for any traces of the trade of this country before the time of Henry 7; for though that Prince laid the foundation for the future commerce of the country, by removing difficulties, which had till then opposed themselves, we certainly had no commerce prior to the time of Henry 7; so far from it, we, in that reign, even sent our own wool to Flanders to be worked and manufactured. He knew not so much about foreign courts as the noble viscount, nor of what was said of the minister abroad; but what he considered as better, he knew what was said of him at home. At home he was almost universally revered and admired as a young minister, who in three years had done more for his country than had almost ever been known; he had raised taxes on the subject, not only sufficient to provide fully for the just demands of the public creditor, but also a surplus large enough to appropriate a million annually, to be invariably applied to the diminution of the national debt; and he was now employed in the consolidation of all the duties of the customs and excise, to the great ease and accommodation of the merchant, and to the certain increase and security of the public revenue. The Treaty did not deprive us of the opportunity of making any alliances whatever; it did not prevent us from entering into other treaties; it merely promised a most useful extension of our trade, by enabling our manufacturers to carry their manufactures to the market of France. He reminded the committee that France, being bounded by Spain, Italy, Germany, and Flanders, promised to prove the medium of extending our manufactures to almost all the European world. He instanced the case of Flanders; the balance of trade with that country had been stated to amount to 800,000*l.* He asked if noble lords thought the consumption of Flanders was equal to that amount? Certainly not. The largeness of the sum was owing to the different countries to which our manufactures found their way through Flanders. He mentioned the high duties which had till lately, been imposed upon our manufactures in almost every country in Europe, as if the nations of that quarter of the globe had entered into a combination to defeat our deriving that advantage from the industry and ingenuity of our manufacturers, which we had a right to expect.

The Marquis of *Lansdowne* said, that the words of the preliminaries bound to nothing, as they went only to name commissioners to inquire into the state of the commerce between the two nations, in order to agree upon new arrangements, upon the footing of reciprocity and mutual convenience. They pointed at nothing in particular, and consequently any thing or nothing might have been built upon them. But he had no hesitation to say that he had a farther view in them; and that view went to the full extent of the principles contained in the present Treaty, and perhaps farther. They were principles upon which his mind had been long made up, and, so far as regarded himself, he was entirely ready to have carried them into execution, and to have stood against any consequences that might have ensued. But he felt a deference due to the public at large, and particularly to Parliament, who had been in the habit from the most ancient times of advising the Crown in matters of commerce, and who, in right reason, were entitled to it. There was a sound and evident distinction between treaties of a mere political nature and treaties of commerce. The one required secresy, and a knowledge of many particulars, which might be confined to ministers and cabinets; the other was a matter of a more general concern, and in which the people at large were commonly, at least in England, more instructed than ministers. He was likewise apprehensive that it might have been attemptinng too much at a time, and embarking too much on board the same vessel; and he rejoiced that he had done so, when he reflected what might have been the fate, considering the angry disposition of the moment when the preliminaries came under consideration; when prejudices might have been excited, and the best commercial plans, that could have been devised, defeated. He, for these reasons, thought it better to be content to sow the seed, that who would might reap, having the precaution to leave them as little hampered as possible; ever ready to pride himself upon having done so, and acknowledging that he had had several confidential conversations with the French minister upon the subject. But he thought it more wise to have it ready to be proceeded upon by any future government, satisfied with having put it into such a train; and that, if

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the completion and execution of the measure fell into any decent hands, it could not possibly fail of being successfully perfected. He declared, therefore, that the Treaty had his entire approbation as to its general principles of interchange of commodities and low duties.

His lordship now proceeding to the principal subject of consideration, observed that the present question turned upon two capital points; 1st, Is the old commercial system to be changed as totally erroneous? 2d, Should France, for any political reason, make an exception in this change? There were, besides a variety of questions infinitely important; some of which he should take notice of; but which certainly might be omitted or rejected under these two great fundamentals. The first fundamental question, whether the old system is erroneous, required very little discussion. In fact, truth had made its own way. Commerce, like other sciences, had simplified itself. There was no science that had not done so. A right reverend prelate had said that our commercial system required no alteration, which, with great submission, he thought could not be said of any thing; and, if the question was put to him, he believed he would not say it of the Church. It was unnecessary to define the progress of the change. A great minister in Holland first opened the eyes of modern Europe upon commercial subjects. Men of letters in different countries contributed their aid to develope and extend the principles of free trade. Ministers of the first eminence in a neighbouring country adopted and pushed them still farther, more or less, as suited their different views of considering the subject. The old calculation, so much dwelt upon by the right reverend prelate, gradually became exploded; and the idea of estimating the balance of each trade was given up. An ingenious modern author had made the idea perfectly ridiculous, by balancing the sums stated by M. Necker and Mr. Grenville, against the mines of Mexico and Peru. But at this moment what reduced it to a mathematical certainty was, the experience of the last war with America, the insurance on smuggling, and the sentiments of the manufacturers.

It was a proud thing, and gave a most immense idea of the trade and wealth of Britain, to see the manufacturers of this country agree to risk the home market—that ready-money market which they so much dwelt upon about the Irish propositions—and go from home, and risk the coming back with perhaps one eighth of the advantages of many commercial countries of Europe. As to what had been said about the fathers of the Church, who, like the manufacturers, were supposed to be good or bad authorities, as they favoured or opposed the sentiments of those who quoted them, he conceived the case admitted a short and clear distinction, which ascertained, beyond a doubt, where manufacturers were to be trusted, and where they were not. When they came about a home market, they were objects of jealousy and control. When about the freedom of a foreign market, and opening a trade, or extinguishing prohibitions and high duties, they were objects of protection and unlimited confidence, with the exception of particular men looking at particular objects. As to the difference between their language respecting the Irish propositions and the French Treaty, he accounted for it clearly thus; that it was not worth their while to risk their home market for the supply of two millions and a half of the people, great part of which they had already supplied legally; whereas, the case is otherwise respecting twenty millions, a small part of whom they supply only illegally.

The right reverend prelate had, he observed, talked of having the honour to know several manufacturers: he would not talk in that style, because he was not the man to flatter any body of manufacturers, or to court them for the sake of popularity, or any such idle purpose; he despised the idea; but at the same time he was ready to do justice to the manufacturers of the kingdom; to acknowledge that they were ingenious and intelligent men, and to do what it behoved every one of their lordships to do, to converse with them freely, and by that means the better to enable themselves to do their duty in that House. The manufacturers would naturally come to them, instead of its being necessary for them to go in search of the manufacturers; their interest would oblige them to do so, and much good would necessarily result from the communication. When he looked at the Commercial Treaty, he said he was proud of the conduct of the manufacturers. The body of English manufacturers had proved themselves to be men of sense and understanding, men of enlightened minds, who saw the Treaty in its true light; men who were upon a footing with even the French

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ministers, and knew the drift and tendency of the Treaty as well as they did. Any man, he repeated it, might be proud, nay, he would go farther, this country might be proud, that her manufacturers in a body came down from their strong holds, fenced in as they were by prohibitions, and mixed with the world: in that they resembled the conduct of a despotic prince, who, being above narrow prejudices, disbands his army, dismisses his garrison, quits his fortification, comes down from his throne, and walks into council, placing himself on a footing with the Council Board, and trusts entirely to the powers of fair reason and argument, rather than to the dread of his strength. In like manner, the manufacturers, seated as they had been on the throne of monopoly, had generously descended from it; and, seeing the true policy of the measure, consented without a murmur to give up all their prohibitions, to meet the foreign manufacturer in his own market, to travel abroad with their manufactures, and to bring home wealth in one hand, and revenue in the other.

The second fundamental point is, whether or not is France to make an exception to our change of system for any political reasons? The assertions in support of this, appeared the most extraordinary possible, and were, he conceived, totally without reason. As, first, that France had always been inimical. For, search history, and there could be nothing less founded. Old times were not worth recurring to; they contained feuds and continental wars for French provinces, none of them British or insular; in fact, wars of the Dukes of Aquitaine and Normandy against their superiors and vassals, and not the wars of our proper King. The situation of things might be said to expire with the delivery of Calais in queen Mary's time. What happened afterwards? Queen Elizabeth, a model of wisdom, always valued the French alliance as much as the French did hers. The Stuarts succeeded, who go for nothing, though perhaps unjustly charged with too much attachment to France; for if Charles and his Queen had attended a little more to cardinal Richlieu, and James 2 a little more to Louis 14, we might have been without our present constitution. After queen Elizabeth, the next instance was Cromwell—no Frenchman surely, and yet, like queen Elizabeth, in alliance with France. In more modern times, a very different person from either queen Elizabeth or Cromwell, namely, sir Robert Walpole, during his long administration, maintained a constant good understanding with France. On the other hand, it must be allowed, that king William adopted a very different system; but as there may be spots even in the sun, with all possible admiration of king William, it must also be allowed that his foreign politics did not make the brightest part of his character as an English king. His conduct was governed by personal aversion to Louis 14, and early, and perhaps justly imbibed prejudices, if they can be called so. But it must be fairly urged in his defence, that he at this day would not probably adopt the same line of politics. France is not the same France, Europe is not the same Europe. In fact, they are as different from each other as Louis 16 is from Lous 14. The one was a lover of glory, the other of justice; the one is mild, the other ambitious; the one sought foreign conquest, the other to improve, and render his people more virtuous; and the one disturbed the peace of Europe, as much as the other wishes to compose it. But besides this, whoever has travelled in France, knows that its public opinion (which happily governs at present in all enlightened countries) is totally changed. A spirit of individual, as well as general independence, prevails; the rage of serving in armies is abated; men enjoy consideration, independent of the Court or of the Minister, perhaps greater than either can confer; fundamental principles are established, which pervade every country, and rise from the natural rights of man, without regard to past or present governments, and which men have a right to claim and insist upon in all climates and in all situations; and above all, that abominable absurdity of going to war, for the sake of court caprices, or any additional territory or trade, becomes every day more and more exploded. This may serve to refute those who maintain that France has always been, or is likely to be, hostile to this country.

The second assertion under this head, is, that France has always pursued a uniform plan. With all possible justice to the French character, he could not find more uniformity in their character than that of most other nations, much less any continued system against England. Marechal Tenquieres, in one short chapter, shews that there was no great system in

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all the wars of Louis 14. Marechal Berwick shews, that there was no great disposition in Louis 14's time, and still less in the Regent's, to take advantage of very favourable moments to distract this country. Marechal Villers confirms the same. As for the war of 1741, it is very well known that it was the senseless opposition of that time that brought sir Robert Walpole into it against his own conviction; and cardinal Fleury, though he certainly deceived lord Waldegrave, was heartily sorry for being obliged to do so, as appears by all the dispatches. And as for the two last wars, the first in 1754, he was satisfied from the principal persons now dead (and cardinal Berni, whose magnificence and liberal manner of living now at Rome made him equally accessible to English as well as French, would confirm it to any one referring to him,) that there was no plan in France; and their not being prepared to meet us, made it evident. As to the last war, it was too recent to go into it, as it would naturally lead to personality, which he would wish to avoid; but it might be said, that flesh and blood could scarcely withstand it, after the defeat of general Burgoyne, considering the old commercial prejudices. So much for the French uniformity of counsels, and their constant deep-laid scheme of destroying this country; which was made the second objection for excluding France from a more open commercial intercourse.

Another and third assertion was, that France was our natural enemy, and never could be otherwise. In the first place, they have no long frontier; they have no claim upon us; and, if we have a natural enemy, it is only the unhappy prince abroad. But, in fact, there is no such thing as a natural enemy, except the power that keeps 800,000 men with a view to conquest, and not as a principle of defence. These are the enemies of mankind, and merit all Europe to join against them. Let nations aggrandise themselves as much as they will, so as they do it not by grenadiers. This country of all others was made to be the model of good policy to every state in Europe, to originate peace, and to inculcate the principles of peace. It was ridiculous to talk of holding the balance, and in the same breath to throw ourselves a dead weight into one of the scales; and it could never be otherwise. If to-morrow the Imperial Courts and Prussia should join to give laws to govern Europe, would any man say that the liberty of Europe would not depend on the junction of France and England? But the case had actually happened. The scandalous partition of Poland, which, if kingdoms were to be judged hereafter like man, one would think must meet with condign punishment,—to what was it owing? to this very prejudice. And there was nothing gave him more concern than this, when he went out from being Secretary of State in 1769; it being his full intention at that time to have proposed to the king of France a confidential as well as an open connexion with Great Britain, to have prevented that reproach to Europe.

It was a fourth assertion against the Commercial Treaty, that it was a submission to France. God forbid he should submit or lower his country for a moment to France, or any kingdom! He of all men could not be subject to such a suspicion. His conduct respecting Corsica sufficiently evinced the contrary. He allowed also, that taking the rudder off from a ship of war at Falkland's island by the Spaniards, should have been taken up in a higher tone. As to Cherbourg, he thought that representations ought to have been made with regard to the works going on there; and that it might have been done in prudent, wise, and proper terms. In his own experience, where he had found one representation succeed on the ground of right, he had found many succeed on the ground of good sense and common interest. He instanced what had passed about fortifications on Turk's Island; and on the other side about Corsica, which he had every hope would have succeeded, and in the very last treaty of peace about Dunkirk. The same reasoning might very properly be applied to Cherbourg, as well as still more powerful reasoning, applicable to the general views of France, which might very clearly prove, that this at least was not a well-chosen time for such an undertaking. But one language was proper for one time, and another for another. And was it not probable, that any remonstrances would be attended to much more after a Commercial Treaty than before? Not only in France, but throughout Europe, when we had the field before us and the cards to play, without making the discovery of so capital a *datum* as a constant enmity to France?

So much for the two grand fundamentals; now for lesser, though important

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considerations. First, it may be said, that more might have been obtained. It was the most difficult point possible to ascertain this in any negociation. Every body had their own ideas, their own methods of carrying on a negociation; which might have been right, or more or less successful, according to circumstances. He was free to own, that what floated in his mind was something of this sort; to have admitted article for article, all manufactures, where the first materials were equally attainable, any momentary superiority under such circumstances being of no account in negociation. Some unreciprocal articles remained on both sides; wine, brandy, vinegar, and oil, on the side of France; coals, lead, and tin, on ours. Theirs are luxuries, which we can get elsewhere; ours are necessaries, which they cannot get elsewhere to equal advantage; we had consequently a right to expect an equivalent for both. There was, besides, the political tendency of the Treaty, in doing away prejudices, &c. which manifestly in the end tended to double the force of France, by putting her at ease; compensation, therefore, was due for three points; and he frankly owned, what occurred in his mind, was, first, to get some advantage in point of navigation, and to have said something of this sort to France—In proportion as we give you land, you must give us sea.

Secondly, something might have been decided in the case of India; for which a great deal might have been said in a reasonable way, which he should not then enter into, nor go at present farther, than to say, that he heard with great concern, that a treaty had been so far advanced, as to have been settled on our side, and happily rejected through some private interest of theirs, which militated against every principle of politics, commerce, and finance, without obtaining one advantage to this country in lieu, and which seemed calculated to overturn the whole policy upon which the preliminary articles were founded. But whether these ideas were right, being the floatings of his own private mind, or whether they were attainable, it was impossible to say. He liked the expression of the duke of Marlborough, who said, when he heard persons finding fault, "I find many very ready to say what I ought to have done when a battle is over; but I wish some of these persons would come and tell me what I ought to do before the battle." Besides, the function of Parliament went to consider the main point, and not the more or the less, which must depend upon hazard; and was rather a subject of private consideration, and of speculation out of doors, than of parliamentary cognisance.

There was a third query respecting Portugal, to which the answer appeared, he thought, very simple. That under this Treaty we had no disagreements, full scope being left to fulfil the very letter of all the engagements we had with Portugal. These abuses were treated as trifling; but it must be by noble lords who had never read the account of them, or heard it stated. He had himself great reason to know the contrary. When he was Secretary of State in 1767, they were then so enormous, that he changed the minister on that account, and sent a relation of his own as consul general, instead of sending him as envoy elsewhere, being determined to get them redressed. He was shocked, however, to find the subject kept dormant, till he came again into office in 1782, when they were to be resumed with the disadvantages attending Count D'Oyeras' death. In his conscience he believed, from what he knew of that slow, though respectable Court, and our mode of proceeding hitherto at home, that nothing short of this Treaty would redress them. It was inconceivable to any body, who had been much in great affairs, to think that one department should, for thirty years together, be making the strongest representation that words could dictate, and another department be loading the same country with fresh indulgences unasked. Such was the case in England of the Secretary of State and the Treasury; the latter of whom even in the last year, as their last regulation, gave a half advantage to Portugal instead of a third. Under these circumstances, it was not surprising that Portugal should feel its way, and break through one privilege after another: first, by attacking our residence in Brazil; secondly, our advantages stipulated in regard to our navigation; thirdly, embarrassing the residence of our merchants at Lisbon; fourthly, taxing our woollens without regard to the express words of the Methuen convention; and, fifthly, taxing the very wines of their own growth, finding their monoply so confirmed, that the tax was sure to be more than repaid to the Portuguese grower by the British consumer, their whole export consisting in a manner in wines. Ap-

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plying all this, it was not supposeable that Portugal could in a moment leave this country in earnest. They had managed well hitherto, by a succession of able ministers, which they kept here well instructed for the purpose; such as count D'Oyeras, too well known to be mentioned; M. Mello, now Secretary of State in Portugal; and M. de Pinto, the supposed successor to that post; and a more respectable one could not be. But the Court of Portugal—for whom he desired to be understood to speak with high respect and esteem, as well as for the country at large, which had been the parent of such great men, and such important enterprises—the Court of Portugal was in its senses. Their market was valuable to us; but there were more nations in Europe that wove woollens than drank Portugal wine; and though he was free to acknowledge the harbour of Lisbon was of use to us when at war with France and Spain, yet, without boasting of what had passed, we were rather of more importance to Portugal, under circumstances which he did not see might not occur again: but he did not wish to dwell upon these points; the interests were reciprocal, and he wished them to be considered as such.

Fourthly, the acknowledgment of the neutral code found in the Treaty was another matter of particular discussion. He was totally astonished at seeing such an article, and knew not how it could come into the imagination of persons who had the least acquaintance with the law of nations, or of the interest of England in particular, or the history of the five last years. It was a subject that had been repeatedly examined, discussed, and decided; it was positively refused to Russia, even in a moment when we were under the necessity of doing, what he hoped we should never be again, of courting her alliance, or that of any other power. He considered it as one of the most material points gained in the late treaty of peace; the putting an end to the Dutch pretensions in regard to it. It was not his business, but he flattered himself, the more the preliminaries were examined into, the more it would appear that this and other omissions were more important than many stipulations might have been. He did not choose to quote particular things that passed in the negociation; but he was authorized, he thought, in giving it as his opinion and conjecture, that it was a point the French would never have insisted upon. He would not admit, that by the preliminiaries ministers were bound, in drawing the articles of the Commercial Treaty with France, to copy the Commercial Treaty of Utrecht. Less antiquated language, and articles more simplified, and drawn in a modern style, would have been better; and instead of any thing that should countenance this novel doctrine, brought forward in Europe by the Northern Courts, he should rather have expected that the claims under it might have been jointly extinguished by France and us. It was sufficiently notorious, that it was not the interest of either country to suffer new marines to start up and grow too powerful. Hitherto, at least, these were politics that seemed to govern the Court of France relative to Russia; however the generosity and affections of England might have induced her to act otherwise. In fact, the neutral code struck at the distinguishing fort of England, that power which more particularly belonged to her. As to the plea that it would signify nothing, and was futile to urge the common interest we had in this with France, because France and England were always to be at war together, he could not accede to it, as it was contrary to all the reasonings respecting the dispositions of France, that at least he had gone upon, in justifying the present Treaty, as tending to peace with France. Heartily concerned therefore as he was, that the article appeared in the Treaty, he hoped that no mention would dare to be made of it in another, without the advice and sanction of Parliament.

A fifth circumstance respected Russia. Though he could never agree with many lords, who supposed that it ought to be a consequence of this Treaty, that France was to sacrifice its political interest to ours, up and down Europe, wherever they might clash, as posssbly they might do in Holland and elsewhere, or that she must forbear making commercial treaties that might be advantageous to her, as with America; yet he must own, that he thought it scarcely fair in France, the moment she had concluded with us, to go and purchase a commercial alliance with Russia, with the sacrifice of a point which she knew we had refused to Russia, and which was so directly repugnant to our fundamental interests. It made him lament still more, that this situation was not foreseen as it ought to have been, and

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provided against, if possible, by our negociators in the French Treaty.

The articles of the Treaty were open to a sixth remark; as one of them (the seventh) appeared totally unintelligible; a mere jumble of words, without the possibility of drawing any meaning from them, and least of all, that given by ministers; he hoped therefore to hear some better explanation than had hitherto been given of the sense of those very obscure words.

Ireland made the seventh and last article he should touch upon. It appeared scarcely credible that we had no settlement either made or in view with France; it was idle to talk of the Irish propositions having been made and rejected, and that therefore nothing was to be done. If this language had been used, he hoped never to hear it again; it was much too humoursome to use towards a great country. If Ireland was an independent country, ministers were bound to treat the public and parliament of Ireland as they would those of Great Britain. If a minister were to tell the public and parliament of Great Britain, that they did not know their own interest and must abide the consequence, he must be looked upon as infatuated. He hoped therefore something would be done without delay, as it was inconceivable that Ireland ought to receive any favours from France greater than those shown her by Great Britain. He trusted the old propositions would be simplified, and passed without delay, and without being mixed with any point of politics, particularly with that to which the sense of Ireland proved so totally averse; namely, obliging her to adopt implicitly all our farther acts of trade.

As for the danger that would attend the capital, which would be lodged in France in case of war, it was sufficient to answer that the French were not a nation of Moroqueens and Algerines. As for the Hovering Acts, he did not feel it incumbent upon him at least to be very anxious respecting them, as he hoped to see the day when they would be rendered almost totally unnecessary, by the trade being made still freer than it was left by the present Treaty. But there was one capital objection, which, in most discussions on this occasion, came in aid of all other objections; namely, that we should rue the consequence; and it would be seen that France would flourish, and we should suffer by the present Treaty. Whether in future France or we should flourish most, it was difficult to say. If we continued under a perpetual fluctuation of administrations, and in consequence of systems, as we had done for many years past, and France continued under one system and one administration; if we continued in our system of corruption, and considered it as the only means of government, and she followed the measures which it was reported she was about proposing, to root it up, aided by the determination of the King to discountenance it wherever it appeared, and where it could be so much as traced to have happened ever so far back, marking the parties with his highest displeasure; if they took the part of great measures, and we pursued little ones, there was no doubt which country must flourish and which decline. But he was not afraid to say, knowing the natural liberality and benevolence of English minds, that he should think it the duty of every man, of every citizen, to rejoice in the prosperity even of a foreign country, produced by such fair and honourable means. If any man had the misfortune to find he could not govern his own family, or free it of the corruption and vice that prevailed in it, he must be base indeed if he repined at seeing a neighbouring family virtuous, well ordered, and happy in its children, its fortune, and servants. The same reason applied in the strongest manner to the two countries; and he would venture to prophesy, if this country declined, it would not be on account of this Treaty; and whoever voted for it, would find no difficulty in accounting for such decline by some of the causes he mentioned. Prejudices might attribute it to a wrong cause; but it behoved every man to set the public right whenever the time came. If we went on rotting in our corruption, and sacrificing the army, the church, and the state, to the paltry purpose of procuring a majority in both Houses, abusing each other, talking of a coalition and such stuff and nonsonse, we could neither expect to be prosperous, wealthy, nor powerful. Under these convictions, he was strongly for the Treaty, persuaded that the principle carried transcendent benefit with it, whatever opinion he might have as to some of its particular clauses; he should therefore certainly vote for the resolution.

Viscount *Townshend* assigned his reasons for thinking that Cherbourg would

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not prove of the service to France that she might expect. He compared Cherbourg with Dunkirk, and contended, that there was an essential difference between a deep-water harbour, and a harbour formed by projecting points, which an enemy can cruize across, and command as she passes. He expressed himself at any rate adverse to his Majesty's ministers remonstrating with the Court of France on that subject just at present, as the doing so would frustrate the completion of the Commercial Treaty, which, he was happy to know, was likely to be well received in Ireland.

The Committee divided on the first Resolution:—Contents, 81; Not-Contents, 35.

The chairman reported progress, and asked leave to sit again.

March 2. Their lordships went again into the Committee, when the remaining Resolutions were agreed to, and ordered to be reported on the 5th.

March 5. The Resolutions and Address were reported. On the motion for agreeing with the Committee in the first Resolution,

The Duke of *Manchester* entered into the discussion of the merits of the Treaty. He said, that he was fully convinced that on mature examination it would be found, that even in its most favourable points it was highly objectionable. There was no part of it, however, in which it was so censurable, as in the article by which we yielded to the doctrine of the neutral code, and gave up the advantageous distinction which we held in the great article of navigation. Having done it in this instance, it was impossible that we could retain it with other Powers; nay, we must insult other Powers to whom we had refused the advantage, by giving it up in this manner to a nation with whom at least we had had no former connexion, and to whom we certainly owed no obligation. In the the present day of politeness it would not be permitted him to harbour even jealousy of the French nation, much less must he venture to offend their nice ears by calling them either treacherous or hostile: they must no longer be termed the natural enemy of England; he would not, for his own part, assume a tone offensive to this new-fashioned delicacy; but he must be permitted to say, without touching on the civility due from one nation to another, that we had no great reason for trusting implicitly to the French councils. All their former proceedings manifested their direct hostility to England. He would only instance their conduct in the last war, when they, without the shadow of a pretence, broke the profound peace that subsisted between the two nations; and at the very moment when they were making the loudest professions of friendship, entered into a treaty with America, and aimed the most destructive blow at the power, dominion, and prosperity of England. We must shut our eyes, ears, and understandings to every thing, to believe that the ministers of France always meant honestly what they professed. An anecdote which occurred to him when in Paris, was a strong proof that they did not even themselves think that they were to be trusted. In a transaction which he had with the great minister who was now no more, and who was in private life as honest a man as he ever met with—when he showed some distrust of what M. de Vergennes said, he made use of these remarkable words: "Je ne parle pas comme ministre, mais comme gentilhomme; à cet égard comptez sur mon honneur—I do not speak as a minister, but as a gentleman, and therefore you may trust to my honour." He desired to know, if since the peace the conduct of France had been such as to inspire us with confidence in her professions. A noble marquis (of Lansdowne) observed on a former day, that the sovereign whom we ought most to distrust, was he who should maintain a large army in time of peace. To this he must be permitted to answer, that being as we were an island, depending on our marine, we had nothing to dread from a sovereign who merely possessed a monstrous army, unless he also possessed a powerful fleet: the enemy whom we had to dread, was the sovereign who decreased his army to advance his maritime strength; and such was the monarch of France. It was a fact, that ever since the peace they had been pursuing the most vigorous means to increase their navy: the peace was hardly concluded before a council was convened to inquire into the state of the navy; and then orders were rapidly issued for the most strenuous efforts in the parts most advantageous for the service. They had hunted in every corner of the world for materials. They had made contracts for ship timber in all the northern states of Europe, in America, and even in Asia:

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in the latter they had contracted for whole forests. They had built no less than sixteen line-of-battle ships since the peace. To what did all this tend? To inspire us with confidence in their pacific intentions? Surely not; such formidable preparations, attended with expenses so enormous, at a time when they could so ill bear expense, indicated nothing but hostility; and that hostility must be pointed against England; for were it against any other power, her means would be different. In this great political aspect, therefore, he must be free togive his opinion, with all proper respect for the polite feelings of the day, that he distrusted the views of France. In the lesser considerations of the Treaty—the advantages of tariff, he had also his doubts. How few of the articles of manufacture were there which we enjoyed without their competition! He believed, that excepting the Birmingham and pottery branches, in the hardware, there was not an article in which they were not making vigorous and successful efforts to rival us. In glass it was manifest they would rival, if not excel us; in cabinet-ware they were as dextrous, and 50 per cent. cheaper; in many other articles, even in woollens, he was afraid that our manufacturers would find themselves deceived in their expectations of increased consumption.

The Marquis of *Buckingham* observed, that as far as the point could relate to the insincerity of the French, it certainly was not the design of ministers to consider them as morally sincere at this time more than formerly; neither was this Treaty to make ministers less jealous of the designs or of the preparations of France. The noble duke said, that there was evidence in history of the French having been uniformly the natural enemy of England. In what history, or in what part of Europe could the noble duke find a power which either had been, or which then was, the natural enemy? There was no such thing between independent states as natural friendship or enmity: it was interest and contingency all. What ministers observed on the subject of the Treaty was, that it gave us a rational hope for the duration of peace, because it made it the interest of the French to be friendly. Her true prosperity depended as much on the faithful pursuit of this new commercial connexion as did that of England; and this was the sum total of the change which the Treaty made in the relative condition of the two countries; that it disposed them both to friendship without lulling either into a dangerous repose in professions, or suspending the necessary precautions against danger. It was argued, that this Treaty tended to throw a great part of our commerce into the hands of France; and that we ran the alarming hazard of suffering a loss in case of a war. What was the consequence of the last war, when, though engaged with four maritime powers, our commerce was not only protected, but was seen to flourish; nay, when it contrived to send into, and circulate through France, our produce and manufactures? There was an ability in the English commerce which baffled competition; and the same ability would be found in our manufactures. He was by no means alarmed at what the noble duke had stated of the condition of the French manufactures. Not only our hardwares and pottery, but our cottons and woollens, and various other most valuable articles of our trade, would find their way into great and decisive circulation in France.

Viscount *Stormont* declared, that he had not yet heard a syllable in support of the Treaty, which in the least altered his opinion. Adhering to those sentiments which he had the honour to deliver on a preceding day, he would not trouble their lordships with going over the same ground. He could not avoid, however, taking an opportunity of condemning that part of the Treaty in particular which recognized, or at least tacitly acknowledged, the principles of that system which would prove the ruin of our navy; he meant the neutral code.

The Earl of *Carlisle* persisted in thinking the Treaty hostile to the interests of this country. He admitted the superiority of our manufactures, but dreaded that we should not long be able to preserve that superiority; and with respect to our superiority of industry, that was of a more temporary nature than even the other. He animadverted on the conduct of ministers, in trusting the business entirely to noble peers, who could not be supposed to be so well acquainted with the subject as themselves. Ministers, no doubt, preserved their silence on the same grounds that they had stated the manufacturers to have done; and, like them, it was to be interpreted as a positive and direct approbation of the Treaty! He, however, thought it was a duty incumbent on those who were responsible for the measures of

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Government, themselves to come forward in their support.

The Marquis of *Carmarthen* assured the House, that his silence had not proceeded from any want of due respect to their lordships, nor from any difficulty which he found in being able to support a measure which he was firmly convinced would prove of infinite advantage to this country. Had it originated in that House, he should have thought it his duty to have given his sentiments fully on the subject; but as it had already been so often discussed, he deemed it unnecessary to go at length into the consideration of it. The marquis then went into a general defence of the Treaty, which, in every view that he had considered it, he asserted to be highly advantageous to England in the extension of her commerce; and that it would tend to promote an amicable intercourse between the countries; and while it gave us those advantages in point of commerce, we lost nothing in a political sense.

The Earl of *Sandwich* expected to have heard from ministers the most ample information on a question of so much magnitude as the present, but he had been disappointed. When he had the honour of a share in administration, those noble persons who now preserved such profound silence were the first to call on his Majesty's ministers for that information, which, from their situation, they were bound to give. The noble marquis who had lately spoken seemed to place much confidence in the operation of the Treaty, and particularly in its pacific effect. For his own part, so far was he from imagining that it would tend to prolong peace, that he was convinced it would have a contrary tendency. Every commercial negociation between rival nations, so far as experience led him to judge, had been productive of dissention. Had not our commercial treaties with Spain occasioned all our disputes with that nation? And if we look to private life, do we not see what a jarring of interests interferes with the best dispositions, and is always the means of sowing the seeds of discord? Powerful nations so nearly situated must invariably be rivals, and they have been so from the age of Rome and Carthage, down to the time when Great Britain and France flourished as rival countries. He had known France in negociation; he knew her to be a wise and an agreeable nation; but he knew likewise, that she was artful and insidious. She had but one great object in view, which she steadily pursued—her own aggrandizement upon the ruin of Britain. Unfortunately for this country, her councils were directed by no uniform pursuit; she must, therefore, be the dupe of the superior policy of France. What were we to think of her stupendous fortifications at Cherbourg? They were not defensive, they were offensive works; and he could not but admire the address of that nation, who, with all the show of hostile preparation, had prevailed upon a rival to enter into a cordial treaty of alliance with her. He confessed he viewed those fortifications with a jealous eye, and he thought it was incumbent on us to look to our own coasts. He was a friend to the navy, and he was also a friend to fortification, so far as it aided the navy. What must be the consequences of the fortifications at Cherbourg? Will they not necessarily oblige us to keep a larger fleet in the Channel than ever we had found necessary before? Such being the case, it was surely essential to our security, that we should follow the example of France so far as to protect our coasts, and by that means to leave our fleet more at liberty to act elsewhere. With respect to the commercial part of the Treaty, he saw none of those advantages which the advocates for it held out; and for these reasons he found himself compelled to give his negative to the motion.

Lord *Porchester* renewed his objections to the Treaty: not even, he observed, had the noble marquis (of Lansdowne) who had spoken so ably on both sides of the question, made an impression on his mind.

The Duke of *Richmond* contended, that the fortifications at Cherbourg were not the only works which it was in the contemplation of France to erect; and this was not owing to any want of vigilance in Administration; it was in consequence of the last Definitive Treaty of Peace, which unequivocally yielded up the important article of the demolition of the fortifications at Dunkirk. The fortification of Dunkirk, then, was the next object, which would certainly attract the attention of France. This would give her still more the command of the Channel, and it must of necessity oblige us to counteract her operations, by looking to the protection of our own coasts. Adverting to what the marquis of Lansdowne had said on this subject, he insisted that it was absurd to contend, that we could remonstrate and observe to France, you must not carry on

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those fortifications. With the same propriety she might come and say to us, you are not to fortify your dock-yards. With respect to the different questions asked by the noble marquis, Why had we not dissented from the neutral code? Why had we not settled the state of India? &c. He would tell their lordships shortly—that the reason they had not done so was, because France would not have listened to their propositions.—The Duke then proceeded to take a cursory view of the Treaty, which he defended both in its principle and in the detail. He presumed on the silence of the manufacturers as a positive proof of their approbation; and had they come to the bar, he was convinced that they would have given such information of the advantages to be derived to their respective manufactures, as would have alarmed France. The immense advantage which this country derived from the abundance of fuel in our coal mines was the life and soul of our manufactures, and it would always give us a decided superiority. He adverted to the situation of our trade with Portugal, which, he said, had been for some time on the decline, though he admitted that it was of considerable importance, and that it was the interest of both countries to be on an amicable footing. He contended that our Treaty with France did not interfere at all with the Methuen Treaty, and that it was highly expedient that the revenue should reap some advantage from a trade which had hitherto been almost totally in the hands of the smuggler. Such, for instance, was cambric, and several other articles, which, though prohibited, were in general use. He added, that however the French might go beyond us in invention and discovery, their manufacturers had never yet been able to execute and finish their work as well as the English.

Earl *Fitzwilliam*, after disapproving of the Treaty with France, stated that the apprehension of a rupture with Portugal had given a very serious alarm to the manufacturers of Yorkshire.

The Earl of *Carlisle* said, he could bear testimony to what had fallen from his noble friend, and condemned those who endeavoured to depreciate the importance of our trade with Portugal.

The Marquis of *Lansdowne* said, that he was happy to find from the tenor of their lordships speeches that night, that he was perfectly understood in what he had troubled the House with on a former night, particularly on the important subject of what he considered, between independent states, as the only natural enemy; namely, that power which, in time of peace, should keep up an army of 300,000 men. In this, however, he had been misrepresented elsewhere; in a newspaper, and in one which had the general character of accuracy—he was said to have mentioned the name of the king of Prussia, as the natural enemy of other states. Nothing could be more distant from his idea, nor from his language. The king of Prussia, whom he had the honour to know as one of the most exalted lovers of humanity, was, and would be more, distinguished for his cherishing no views but such as were consistent with the peace and happiness, not the vain-glory of his people. He thought it necessary to say this to prevent a farther impression from being made on the public mind, and on Europe, by the mis-statement.

He could have wished, he said, that noble lords in office had been a little more explicit in answering the various topics that had been thrown out. A noble lord behind him had been pleased to say, that on a former evening he had spoken "on both sides of the question." He was very much astonished to hear the noble lord give to his sentiments this character. He had, as precisely as words could speak, declared his full and complete approbation of the principle of the Treaty; but he had as clearly expressed his wishes that the detail had been more cautiously guarded, and that some points had been secured which were left totally untouched, or vaguely provided for. Now, if there was a fair, an explicit, an independent mode of discussing a subject, it was that which he had pursued. Approving of the ground-work, principle, and tendency of the measure, thinking it a great and important good to the country, he had delivered his thanks to ministry for the design; but seeing articles in the detail which might be mended, and thinking it yet time to mend a part of them, he had as frankly communicated his objections: stating those objections, he trusted, with candour, certainly without any design of captious opposition to men, he had clearly stated, that, with all the errors which he had noticed (and he was free to confess that he thought them great and important errors), he saw so clearly the importance of the principle, and was so perfectly convinced that that principle would triumph over

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a hundred petty obstacles, that he should give his hearty assent to the resolutions by which it was to be carried into effect. If the noble lord meant that he had spoken on both sides, because he had not forborne, out of friendship to Ministers, to state his objections to the detail, and because he had not, in complaisance to the Opposition, forborne from paying his tribute of praise to the principle, the fact was, that he was, and had through life, stood aloof from parties. He was of no party. It was his pride and principle to be of no faction, but to embrace every measure on its own ground, free from all connexion. Such had been his political creed; as such he stood before the people, and as such he coveted to be judged by them. In respect to his conduct on this precise Treaty, it was strictly consonant to this practice.

The principle of the Treaty he had acknowledged in the preliminary articles. He had left those articles, as he had stated, very large and open, and in order to give scope for the negociation of the Commercial Treaty, and that the nation might be as little committed as possible. In viewing the use that had been made of this advantage, he had observed several matters in the Treaty which struck him with astonishment. He repeated the six separate objections he had made the night before: 1. That we had procured no advantage on our part, either in navigation or otherwise, to countervail the unreciprocal articles and the political tendency of the Treaty. 2. That we had conceded the neutral code. 3. That we had taken no step to prevent or stop the erections at Cherbourg. 4. That the wording of the seventh article was so obscure and unexplicit, as to threaten the extinction of our commerce with Spain. 5. That by the Treaty we left Ireland more connected in freedom of trade and facility of intercourse with France than with England: And, 6. That we did not seize the favourable opportunity to settle India. On these several topics he had urged their lordships, and he wished he had received more explicit and convincing explanations than those he had been honoured with. The noble duke in the blue ribbon had shortly said, that it was in his mind ridiculous to have stood in the bargain, making demands, which they were sensible would not be complied with. He did not pretend to know what would, and what would not be complied with; but he knew what ought to have been the language of England, and he saw plainly what had been the language of England, and where it went wrong at first setting out; viz. in suffering our supposed superiority in certain manufactures to be set for a moment against the solid, permanent advantages of France. France had in her produce four extensive articles of commerce, against which we had nothing to reciprocate, for it was ridiculous to listen to any argument in regard to our manufactures: they were transitory and fleeting. Nothing could be more precarious than an estimate founded on our present real or pretended superiority in this respect. Our boasted cottons were the growth of a day; we saw manufactures rise up almost instantaneously. Even in ship-building, a thing which might be supposed to occupy much of our time and study, it was only within these two years that we had discovered the important fact, that men of war might be built all round the coast. To talk, therefore, of the excellence of our manufactures and of their superiority, was ridiculous: but the advantage in the produce of France was positive and eternal; as long as the earth endured, it remained to France. Ought not the ministers, then, to have claimed something in exchange? Did they not know how impatient France was for the Treaty? He called on the noble marquis to say, if France had not complained that a gentleman should be sent to France and continued there without instructions? The fact was, that France was eager, justly eager for the conclusion of the Treaty; and he was sure the noble marquis had too much candour to think, that a minister of the wisdom, experience, penetration, and forecast, of M. de Vergennes, could have been so eager, unless there was some great point to be gained. There was a great point, an enormous point for France; it stretched beyond the powers of human estimate, and was a matter of so much speculation that it could not too much arrest the notice and awaken the powers of Englishmen. What had we done? We had stipulated for no one thing. We had given up the neutral code, which was the great weapon of England. He needed not say how anxiously and how positively he had refused it on making peace. He had refused it to Holland—positively refused it to Holland. Ought not this to have been a lesson to them? Could they ask it after it had been so peremptorily denied to an old

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friend? The noble duke had said it was no longer to be thought of—it was not an object which we could maintain of right. He could not so easily be convinced that there was not a right; and as to its importance, he called it one of the most formidable weapons of offence. It was said to be worthless, because no nation would observe it when they were able to break it; and he confessed one of his strongest arguments in objection to it, was its impracticability: but why enter into a treaty on the subject? Why give a consent to a thing which it must be always our wish, when able, to set aside? It was in the nature of man: enterprise and hostility would lead to it; and he trusted that no minister would ever consent to yield to it, without first taking the advice of Parliament.

On the subject of the erections at Cherbourg, the noble duke had insinuated that he had said they ought peremptorily to have remonstrated against them. He never was so absurd: he knew our situation too well to think that we could dictate to any nation, much less to a court so formidable as that of Versailles, on a topic of internal concern. He said only, that in the negociation of the Commercial Treaty, the matter ought to have been represented as a thing that engendered suspicion, and which was likely to exasperate the high-blooded people of England. But the noble duke had said, we had nothing to do with their erections at Cherbourg, no more than they had with ours at Portsmouth and Plymouth. We certainly had not, nor perhaps so much; for he did not think it at all probable that the French would object to our fortifying our coast, since, on the event of an invasion, they would take possession of the fortresses as advantageous posts. But the noble duke said they had the power granted them by the Treaty of Peace; and he had informed the House that they were going to fortify Dunkirk. Now, he had, as he thought, so clearly explained what had occurred at the negociation of the preliminary articles, with respect to this matter, that he did not think it would have been again brought up. The fact was, there was much conversation, much reasoning on the subject; but it was made so peremptory a condition, that he at length gave way. There were two grounds stated: first, that it was an insult, secondly, that it was futile; for the back-water which made the port of Dunkirk, might be carried beyond the limits prescribed by the Treaty. But though he yielded the point, he did it on the most complete assurance that there was no design to restore the bason and harbour of Dunkirk. And farther to satisfy his mind, and to secure him, as he had said, against the caprice and project of any one minister, Dunkirk was to be taken out of the department of the minister of the marine, and put into the department of M. de Vergennes.

The noble Marquis proceeded to the objections on the obscurity of the seventh article; and the question of India. Why that important point was not settled, he confessed astonished him. The noble duke had said, that he knew not how it could have been settled. He wished the noble duke had explained to him the circumstances of the Treaty he had mentioned on a former evening, and which was, as he had said, a complete surrender of all the advantages of the India Company, as well as of its privileges, without having gained one thing in return. He stated this at great length, and then came to Ireland: this matter gave him the highest concern as well as astonishment. When he lately heard in the country, that a body of the Irish privy counsellors had been collected in England, to consult with ministry, he had no conception that the conference was on the subject of a French treaty with Ireland, while England and Ireland still remained in the same distracted state as before. Nothing could be more extraordinary than this; for the time was favourable: Ireland was a nation of good humour; the duke of Rutland and Mr. Orde were men who would make her good-humoured, if she were the contrary. The conduct of the English manufacturers, in the present case of the French Treaty, must crush all their former objections to the system of the Irish propositions. The present, then, was the moment for ministers to revive the idea of a beneficial connexion. Why was it not done? He did not mean the vague, ill-natured, and inadequate Irish propositions, as they were called; but a plain, simple, good-intentioned scheme of reciprocal intercourse, taking off the shackles that lay on our trading laws; which was all the union that he desired. And, by-the-by, if he might not be called impertinent for alluding to another part of the kingdom, in which he had no property, he would say that he saw no objection why Scotland might not gradually receive the law of

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England. He believed many of their most enlightened men were ripe for it. If this were once done, and the common law of England, as it now happily subsisted, the same in every part of the British dominions, and preserved the same by means of one common court of appeal, it was all the union he desired. But to return to Ireland: it was monstrous to think that their privy counsellors should be assembled, and nothing be done; at a time too when the Right Boys exhibited such a scene, to whom, for aught he knew, every consul from the Court of France may prove a minister.—He concluded with a recommendation to ministers to read Fenelon's admirable treatise on the effects of ill-humour, in the concluding book of Telémaque—a treatise which should be written on every minister's bed-post.

The Duke of *Richmond* said:—The noble marquis's explanation of the fact respecting the article of Dunkirk in the Treaty is not satisfactory. That article the French take advantage of, and we have no right to question their conduct. The noble marquis insinuates something about the fortifications at Portsmouth and Plymouth. If we may take his opinion from the voice of certain persons in another place (col. Barré, &c.), the noble marquis has changed his opinion on the subject of the English fortifications, as much as he has done on those of the French, comparing his present argument with his treaty of peace; for I have no hesitation in declaring, that when the plan for fortifying Portsmouth and Plymouth was first submitted by me to the noble marquis, when he was at the head of the administration of this country, he signified his direct approbation of it. The noble marquis talks about India, and about a treaty—a most alarming, dangerous treaty, which, happily for this nation, the French rejected. I know of no such thing; but it does not seem that that which the French refused to accept was greatly injurious to this country and favourable to France. The noble marquis is feelingly alarmed about Ireland; the Right Boys and the tumults give him great uneasiness; the assembling of a number of Irish privy counsellors in London gives him astonishment. I cannot help taking notice of a very visible change in the noble marquis's mind on this subject also; for now the Irish propositions must be simplified. The state in which they were introduced, and in which they passed this parliament, though rejected in that of Ireland, it seems, was crude, and coupled with political matter, which justly alarmed Ireland. And yet, my lords, I do not recollect that the noble marquis signified his disapprobation of the plan when it was before this House; on the contrary, I believe he gave it his direct concurrence.

The Marquis of *Lansdowne* answered thus:—I beg that when the noble duke is disposed to animadvert on my words, or on my conduct, he will represent them correctly. The noble duke says, that from the conduct of certain persons in another place, my opinions on the subject of the fortifications may be gathered. It is surely a very incompetent way of ascertaining a lord's sentiments, to argue that certain persons in another place talked so and so. I beg leave to say, that the honourable persons to whom the noble duke alludes, are infinitely more capable of forming a mature, sensible, and scientific judgment on the plan of fortifications than I am of advising them; and on that head, at least, they require no instructions from me, if I may be supposed at any time to influence their minds. Of their conduct I do not speak, but I do not desire to disguise my own sentiments. If the noble duke has any proof of my having signified my direct approbation of the plan of fortifications, let him produce it: until he does this, I content myself with a solemn declaration, that I never did give my approbation to the noble duke of that plan, either before or since I left his Majesty's employment. When in office, it was my duty, and it is consistent with my regular habits of acting, never to commit myself hastily. On every topic I took the advice of those, in whose knowledge and ability on the point in question I had the fullest confidence; and having their opinions in writing, I weighed their force, and made up my own mind. On this plan I pursued this course. I not only consulted my own confidential friends, but took the opinion of certain persons of high character in this House, who, though not agreeing with me in politics, I considered as above others capable of giving an authoritative opinion on the subject. This necessarily took time; and in the mean time I aver, I did not signify my approbation to the noble duke. At that time the House may suppose I was fully occupied with business that embarrassed me. I was settling the important measure of the preliminaries

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of peace; and in addition to the weight of those who opposed the measure in parliament, I believe it is no great secret that there were difficulties among ourselves. I might have reason to fear, under all the circumstances of that time, that the noble duke might change his mind, and I must necessarily dread the change of one in seven. So critically situated, when the noble duke referred his plan, there might perhaps be a degree of address on my part in speaking to the noble duke. It was natural—it might be necessary—but I solemnly declare I never directly approved of the plan; and I say again, if the noble duke has any proofs of my assent, let him publish them.

The noble duke says, there is no treaty with the French about India that he knows of. I am astonished at this. I know the noble duke is sufficiently industrious, scrutinizing, and tenacious, in office. He is not likely to suffer the insult of the concealment of confidential measures. I do not mean to be officious, nor to stir up any quarrel between him and his colleagues; but if the noble duke does not know, I beg leave to tell him, that there was a treaty made out here, by which the privileges of the India Company were completely to be sacrificed to the French, without a single stipulation in return; and that this treaty was unaccountably rejected in Paris by means of intrigue arising from private interest. The noble duke says, I did not originally object to the Irish propositions. I did not—I had my reasons—strong forcible reasons. I saw at the time all the politcal objections which Ireland was likely, and which Ireland afterwards did take up, but I did not care to speak my mind in this House. Why? Because I know that such people as his grace would be ready to carp at my words, and so say that I was anxious to inflame the Irish people, and to propagate insidious alarms.

The Duke of *Richmond*.—I am not apt, my lords, to make an assertion without sound authority. The noble marquis says, Bring forward your proof, if you have any proof, of my having approved the plan of fortifications. My lords, the noble marquis signified his approbation in the presence of the Chancellor of the Exchequer, and, to my mind and understanding, gave his direct assent. The noble marquis now says, that having at that time a great object to carry, the times being ticklish, and one vote in seven being serious, he might speak to me with a degree of address. My lords, I must pronounce my abhorrence of such conduct in his Majesty's cabinet—and if a person entrusted with the highest office in administration, at the head of the Treasury, can conceal his sentiments on a plan in which the Treasury is interested as requiring money, and which can only pass through the direct support of the first lord of the Treasury, I say, my lords, I never can act in confidential situations with such people. The noble marquis says, he might have his fears at that moment of my changing my mind. My lords, our indifference arose from my not changing—I thought that the preliminary articles were not what we had a right to expect, and what I am convinced we had the ability to procure. I thought so then, and I think so now.

The Marquis of *Lansdowne*.—My lords, I am in your memory. Did my words bear the interpretation given to them? Did I insinuate, that for political purposes I might find it convenient to deceive the noble duke by a pretended approbation of his plan? My suggestion went to this, and it was only surmise, that perhaps from the critical state of the Cabinet at that moment, I might not instantly provoke a very irritable mind by a direct rejection of his scheme. But does the noble duke mean to assert that I directly approved of it? for there is a material difference between withholding for a time one's doubts, and pretending falsely one's approbation. The noble duke says, the Chancellor of the Exchequer was present—If that gentleman thinks I signified my approbation, he very much misapprehended me. But I beg it may be thoroughly canvassed. I have the means of completely proving that I neither did, nor could at that time give my direct approbation.—The noble duke has avowed his disapprobation of the Treaty of Peace. That disapprobation is public. I wish to God I durst declare the whole story of the noble duke's opposition to that Treaty. Your lordships must remember the strong arguments he made use of in this House for the necessity of a peace—after which the noble duke disapproved of the peace which was made. I agree in thinking it impossible that confidential men can act with one another if there is disguise between them—disguise amounting to insincerity. I call God to witness, that I have ever studied to bear myself to my colleagues with the utmost and the most handsome fairness. I

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have not, since I quitted his Majesty's service, shown any great eagerness for place; nor have I set up any captious opposition to the ministers of the day; much less have I endeavoured to draw about me a party—to erect a standard—or to conciliate and influence lords and gentlemen to assist me in any object of ambition. The noble duke will not, I think, charge me with this, and therefore he should give me credit for candour at least, in delivering my sentiments on any subject.

The Duke of *Richmond* replied.—The noble marquis says there is a material difference between withholding doubts and pretending approbation. Put it on the noble marquis's own ground—I say that the suppression of doubts, on a great plan of expense, and in an important national object, is unpardonable in one minister towards another. Because a minister has an object to carry, is he to carry his subtilty into the Cabinet? It is a mode of negociation pardonable with enemies; but when such craft occupies the place of plain-dealing, of complete candour, and of good faith, which ought ever to possess the councils of the nation, there must be discomfiture and ruin. The noble marquis asks me, if he has manifested any great eagerness to get into place, or to draw me to his side. I know not what the noble marquis has done lately, or what he is doing now; but I think I remember the time when he seemed disposed to collect a body of friends, and when he even thought it worth his while to invite so insignificant a person as myself to join him. The noble marquis says, if the Chancellor of the Exchequer thinks that he signified his approbation, he misunderstood him. I simply aver, that I so understood the noble marquis. The plan was submitted to him in the presence of Mr. Pitt at my own house, where they did me the honour to come for the purpose.

The Marquis of *Lansdowne*.—The noble duke seems determined not to understand me. I agree with him that the suppression of doubts would be unpardonable, if that suppression went so far as to delude a colleague to hazard his plan before Parliament, where he was to be abandoned and exposed. I challenge the noble duke to prove that any such suppression took place. Was he deluded to bring it before Parliament? My lords, as the noble duke has gone so far, I will tell your lordships, that before I quitted office, I received a letter from the noble duke pressing me to give him my decisive opinion on his plan. Did this indicate my having approved the scheme even in degree? I defy the noble duke to produce a scrap of paper on the subject from me. That letter the noble duke is very welcome to see; I shall deliver it to him to assist his recollection as soon as he pleases.

The Duke of *Richmond*.—Any letter of mine of which the noble marquis is possessed, will be fair testimony; and as such the noble marquis will properly produce it. In the mean time I adhere to my strong assertion, that he signified his approbation of the plan in the presence of the Chancellor of the Exchequer. I desire to know if the noble marquis will agree to refer the disputed fact to the memory of that right hon. gentleman.

The Marquis of *Lansdowne*.—I will submit it with confidence to the right hon. gentleman: but still I shall produce the letter of his grace.

[Mr. Pitt being behind the throne, some lords said, "Ask the right hon. gentleman;" but this was immediately rejected, by a general cry of "No, no."]

The House divided on the first resolution: Contents, 79; Proxies, 15—94. Not-Contents, 28; Proxies, 7—35. The other resolutions were also agreed to.

Debate in the Lords on the Address upon the Treaty of Commerce with France.] March 6. The order of the day being read, the Lords entered into a committee upon the Address on the Treaty of Commerce with France.

Viscount *Stormont* observed, that had he been a friend to the Treaty, he should have thought it his duty to have opposed the Address, as unprecedented, unparliamentary, and unconstitutional. He renewed his argument against the Treaty, inasmuch as it contained matter that could not but materially embarrass Government in the negociation of their treaties of commerce with other states. He imputed the measure of voting an address to the great haste of France to have the Treaty so sanctioned; and particularly desired to be understood as contending, that no address to the Crown could so far pledge Parliament as to preclude the freedom of future debate, when any bill or bills should be brought in to carry the Treaty into effect.

The Marquis of *Buckingham* defended the Address, by asserting that there were many precedents for such a proceeding. He instanced a subsidy treaty in 1725,

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and one or two more. Most undoubtedly no address could so far pledge the House as to preclude their lordships from freely discussing such bills as may hereafter come before them. The Address did not bind them to the particular mode of carrying the Treaty into effect, but merely conveyed an assurance to the Crown, that they would take the proper steps to carry it into effect.

Lord *Porchester* stated, that the case of a commercial treaty and a treaty of subsidy, were essentially different. In the case of a subsidy, the House agreed to make good the engagement of the Crown, by furnishing the sum necessary; but in order to give a commercial treaty effect, they must alter the existing laws of the land. He therefore condemned the Address, as a far more objectionable measure than the Treaty.

Lord *Loughborough* reprobated the Address as holding out to the Crown a language of gross falsehood. It stated that they had taken the Commercial Treaty into their most serious consideration; whereas, parliamentarily speaking, they could not be said to have taken any thing into their most serious consideration that they had not proceeded upon by bill. He pointed out inconveniencies that would result from different articles of the Treaty, and in particular that of foreigners coming and setting up shops in different parts of England, which was directly in the teeth of an existing law. He condemned the Address as futile, useless, and nugatory, as well as unparliamentary and unconstitutional; unprecedented, he said, he feared it was not. In the reigns of Charles 1, and 2, plenty of precedents might be found; but were those just the periods of our history, whence noble lords would be fond of selecting precedents? He reasoned on the danger of opening a communication between Parliament and the Crown; and said that it might lead so far, as to encourage the Crown to send messages to Parliament to quicken its deliberations about particular measures, and introduce other mischiefs.

The *Lord Chancellor* took a review of the various grounds of objection urged against the Treaty, as well as against the Address. He said, that had the debate been less indefinite, it would have proved intelligible. He expected to have heard the term 'pledging' better and more fully explained, and to have been told how far the Address pledged their lordships, either in an unparliamentary, or an unconstitutional manner. Unprecedented they had just heard the Address was not; because, if they referred to certain unpopular reigns, it so happened that a sufficient number of precedents might be found. The fact was, that precedents were to be met with in better times; witness the treaties of 1720 and 1725. The Lord Chancellor replied to that part of lord Loughborough's argument in which he had talked of the danger of opening a communication between the Crown and Parliament, and dwelt on the various instances in which the Crown by message might so interfere. With regard to the House being pledged by the Address, his lordship reminded them, that in the progress of every bill or bills, they would have repeated opportunity to discuss the subject of each bill. He proceeded to notice the various objections that had been taken to the Treaty. He mentioned the alarm about the Family Compact, stating that most part of the Treaty so called, was a treaty which no nation upon earth had a right to say France and Spain might not make. The 25th article indeed, which declared all treaties of the two Crowns with other states null and void, was an enormous article, and justly gave offence to those states, who very naturally declared their treaties should not be abrogated without their consent. But, what part of the Family Compact did the 7th article of the Commercial Treaty with France recognize? The 24th article, that which entitled Spaniards to be considered in all respects the same as Frenchmen when in France, and Frenchmen as Spaniards when in Spain, was an exchange of privileges which surely Great Britain would not be justified in murmuring at. He observed, that a noble marquis had advised a remonstrance to be made to France on account of the fortifications now carrying on at Cherbourg. He asked, where was the minister who would venture to make such a remonstrance? [The marquis of Lansdowne said, he would.] By what part of the law of nations had we a right to remonstrate? [The marquis of Lansdowne said, "We had no right."] The Lord Chancellor proceeded to state the improbability of our obtaining any sort of satisfaction whatever, were a remonstrance to be sent, where confessedly, we had no ground of right to stand on, and where, of course, our application would be laughed at as absurd and ridi-

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culous. He next mentioned the East Indies, and said that quarter of the globe had been mentioned, as if we expected France to give us something there, and asked if it was Chandernagore or Pondicherry that we wanted? Let it be which it would, a commercial treaty was not the medium of negociation by which any addition of territory was to be obtained. Ireland he also spoke of, and contended that to have treated with Ireland previous to treating with France, the present circumstances and situation of Great Britain and Ireland considered, would, in his mind, have been a most unwise proceeding.

Viscount *Stormont* stated that the Treaty of Utrecht was a treaty of which France always wanted to get rid; and that the duc de Choiseul, when the duke of Bedford negociated the Peace of Paris in 1763, had maintained, that as the Treaty of Utrecht had not been mentioned in the Treaty of Aix-la-Chappelle, it was no longer an existing treaty. He declared that the neutral code and the law of nations were convertible terms; and begged the House to hold it in their recollection, that they had heard from one of the highest authorities, that the Address did not in any sort pledge the House, or preclude the freedom of debating and voting on the bills hereafter to be brought in.

The Marquis of *Lansdowne* said, that he would in a few calm words, after the many warm ones which had been delivered in the course of the debates for the past three days, reply to what had fallen from the learned lord upon the woolsack. And first, with regard to the Address, he had no occasion to go at all into that; he was perfectly satisfied to send it to the foot of the Throne, there to remain a dead letter, till that House, by acts of their own, should please to give it life and animation. The learned lord had said, Where is the minister that would venture to send a remonstrance (his own word, however, was "a representation," for remonstrance was a harsh word) to the Court of France on the subject of Cherbourg? when he had taken the liberty of interrupting the learned lord, and said, that he would. The learned lord had next asked, What right did the law of nations give them to put a question to France on the subject? when he had again interrupted the learned lord and answered, We have no right. Upon which the learned lord had very triumphantly ridiculed the idea of proceeding where there was acknowledged to be no ground of right. They (his lordship said) had no large wigs and big gowns to lend them an air of weight and authority; but there were some among them who once were ministers, and who had some experience, and as nice an idea of honour as other men. He well knew, that plain good sense and the reason of the thing properly put to a foreign Court would do much more than mere right. Upon that ground he had acted when in office in 1782, when M. du Chatelet had questioned him about the fortification of Turks Island. As long as M. du Chatelet stood on the ground of right, and peremptorily demanded an answer, he would not make him a word of reply: at last the French minister saw his error; he changed his tone; he put the question upon the plain sense and reason of the thing, saying, France and Great Britain have distant territories enough to fortify; France has claims on Turks Island; and why, by fortifying, create a jealousy between the two Crowns? He that instant satisfied M. du Chatelet completely. He gave him the fullest assurances that not a single stone was placed, or meant to be placed, on Turks Island. The matter ended immediately. In like manner had he acted respecting Corsica; and had the same line of conduct been pursued after he was out of office, he was persuaded that Corsica would not now have been in the hands of France. The marquis observed, that he would not answer the argument about the Treaty of Utrecht, as the noble viscount had answered it so fully. The fact undoubtedly was, that France had always wanted to get rid of that treaty. He declared he was perfectly astonished to have heard the learned lord speak as he had done of the neutral code, and talk of a treaty of navigation as separable from a commercial treaty. To such an argument he knew not what answer to make. With regard to the East Indies, the learned lord had completely mistaken him. He wanted no exchange of Chandernagore. He had spoken, on a former occasion, of a treaty between the two companies, that of Great Britain and that of France, which, had it not failed, would have given a fatal blow to our navigation, our commerce and our policy in India. He was glad it had failed. Having said thus much, he wished to give the Treaty his hearty approval. There were some things, that might, perhaps, have been done better, by more cautious

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ministers; but by far the greatest part not so well. Possibly more cautious ministers would have treated first with Portugal. He declared, in his conscience, he believed it was better as it was; for such had been the difficulties that he had found in endeavouring to obtain redress for the merchants' many grievances, that perhaps, without such an advantage as a commercial treaty with France in our hands, we should not have been able to obtain any redress. More cautious ministers would probably have treated with Ireland, before they went to treat with France. He was convinced it was more likely to turn out well, not to have done so. Ireland might easily be settled with, and various opportunities might be found to adjust all the lesser omissions that he had before spoken to. Therefore, such as the Treaty was, he gave it his full concurrence, and ministers were welcome to any little assistance he might be able to give them in its support. With regard to what had passed the preceding night between him and the noble duke, if the noble duke was contented, he was willing to let it rest where they left it.

The Duke of *Richmond* justified the Address on different grounds, and quoted the precedent of 1782 on the subject of the repeal of the Act of the 6th of George I. After reasoning on its similarity to the Address then moved, he took notice of that part of the marquis of Lansdowne's speech, in which he had talked of what had passed the preceding evening on subjects foreign to the debate. Their lordships, he trusted, would consider the peculiar situation in which he stood, and suffer him to call upon the noble marquis to produce that letter of his which he had the day before said he had in his possession. He said that he had, since the preceding evening, recollected the letter to which the noble marquis alluded, and he was almost certain, that there was nothing in that letter to support the noble marquis in his expressions of the day before; expressions that went the length of charging him with having caused the plan of a system of fortifications to be submitted to Parliament, which would have cost a very large sum of money, as a measure of Government, without having previously obtained the concurrence of the first Lord of the Treasury.

The Marquis of *Lansdowne* observed, that he would willingly oblige the noble duke, and read a part of that letter, which he held in his hand, and then mention other circumstances which, he trusted, would sufficiently justify him in the expressions which he had used. The marquis stated, that the letter was dated January 30, 1783; that it turned upon various matters, but that it would be sufficient to his purpose to read the last paragraph: he accordingly read it, and the purport of it was, that the duke begged the marquis to turn the various subjects (stated in the letter) in his thoughts, and give him an answer thereupon as soon as he conveniently could, since, when he (the duke) knew the marquis's opinion, he should form his ordnance estimate accordingly. The marquis said, in addition to what he had read, he would inform their lordships, that a meeting took place at the noble duke's house between his grace, the Chancellor of the Exchequer, and himself, at which a fourth person, the duke's secretary, was present; the date of that meeting was what he wanted to have learnt, but as near as he could guess, it must have been long before he received the noble duke's letter to which he had just referred. The business of that meeting was, to settle about the affairs of the ordnance, to advise by what mode its debt should be paid off, and to fix upon some means of preventing the extravagant practice which had obtained in the management of that branch of the public expenditure from existing any longer. The meeting was not of very long continuance; and he remembered that there lay some plans of fortifications on the table, which he looked at with some degree of attention, and saw some designs for forts on the Portsmouth side of the harbour, and some in Stokes Bay; but to the best of his recollection nothing passed or fell from him, that could be construed to be an express approbation on his part of the noble duke's system; nay, the letter in his hand was a direct proof to the contrary, because it prayed him to turn the various subjects it contained in his thoughts, and to give an opinion upon them as soon as he conveniently could, a request that would certainly have been unnecessary, had he given his opinion before. But there were certain other circumstances which sufficiently showed that the meeting in question was not a meeting for the purpose of determining upon the new system of fortifications; for if it had, their lordships would doubtless have thought it oddly composed: for his part, he had

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never professed to be a judge of fortifications nor pretended to be an engineer, and therefore it was not very likely that he should have relied on his own judgment in an affair of so much importance. Had the meeting been convened for the purpose of consulting upon such a subject, he should have naturally expected that the Commander-in-chief and First Lord of the Admiralty would have been present; the first to give his opinion of the system, and the latter to consider how far it coincided with the naval defence of the kingdom: another circumstance also, and that material, was sufficient to satisfy him, that there never had passed any thing like a serious consultation upon the subject—there was not to be found a trace of cabinet minutes respecting it. He explained to the House, that whenever any public business was transacted in council, there always were cabinet minutes taken, and that there were several in existence, where questions respecting the ordnance, and of a nature subordinate to the consideration in question, had been under investigation. He reasoned upon these facts, and said, that he was tolerably certain that the meeting he had mentioned must have happened previous to the receipt of the letter from which he had read an extract, as the preliminary articles of peace were laid before Parliament on the 27th Jan., and debated in both Houses on the 17th of Feb.

The Duke of *Richmond* wished exceedingly that the matter should be clearly understood. It had been said that fortifications were his hobby-horse; they certainly were, and he should never be ashamed to own, that his duty always would be his hobby-horse. As master-general of the ordnance it became his duty to attend particularly to the defence of our dock-yards and our coasts: feeling this, he had taken considerable pains to ascertain where fortifications were necessary, and had consulted engineers upon the subject. Having at length formed a plan for additional works, he had submitted it to those who were competent to decide, and received their approbation of what he had proposed: he had afterwards submitted his ideas in different conversations to the noble marquis, and regularly understood him to coincide in opinion. With regard to the meeting in question, he could not agree that it was a private meeting; on the contrary, it was a meeting upon the business of the ordnance expressly. As it was not then known, whether we should have peace or not, the ordnance estimate was to be made out for the war establishment, and as the fortification system necessarily made a part of that estimate, the meeting had been held between the First Lord of the Treasury, the Chancellor of the Exchequer, and the Master-general of the Ordnance. As there were various plans of fortifications to refer to, the noble marquis had been so polite as to let the meeting be at his house instead of the Treasury: when, however, it was held, the noble marquis entered deeply into the consideration of his plan, and was pleased to honour him with much praise at the time, and, as he then understood him, gave his complete concurrence to the system. As a corroboration that the noble marquis did then concur, or at least appear so to do, the duke produced a letter from Mr. Pitt, to whom he had written that morning upon the subject; his grace read the letter as follows: "My dear lord; I remember the circumstance of the conversation which took place at your grace's house in 1783, when lord Lansdowne and Mr. Steele were present: my memory, at the distance of four years does not enable me to say that lord Lansdowne did positively give a full and direct approbation of your grace's plan of fortifications; but the impression which it made on my mind at the time was, and has continued so on every reflection since, that his lordship did signify his approbation of the plans. I have the honour to be, &c." The duke reasoned upon this testimony in his favour, and said, that he had had many conversations with the noble marquis on the subject, in every one of which he gave him to understand, that he approved of the proposed plan. In order to bring it to the marquis's recollection that he had been used to talk of fortifications, he said that he had repeatedly cautioned him about fortifying Plymouth, and said, "Let me have Plymouth secure at any rate." The noble marquis had challenged him to produce a scrap of paper of his upon which he had signified his consent to the fortification system. He stated to their lordships, that when men in office had a confidence in each other, a great deal of the public business was done by conversation merely; if, therefore, the want of written evidence was to be considered as a proof of there having never been a concurrence notified by the noble

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marquis, there was an end of all confidence between man and man, and the business of an administration could not proceed. The letter produced by the noble marquis was a letter bearing upon a variety of other subjects as well as the system of fortifications; and that letter in a great measure confirmed his argument, since if the noble marquis referred to it he would find, that in that part of it which related to the plans of fortification, it was said, "those plans which you saw,"—a clear proof that the marquis had seen them. But supposing that the fact was as the noble marquis had stated it to be, and that he had dared to go to Parliament with the plan as a measure of government, how came it that the noble marquis in that case did not go to his Majesty and advise him to dismiss him (the duke) from his service, for having dared to carry a plan which would cost 400,000*l.* to the House of Commons, and endeavoured to get it passed, without having previously obtained the consent of the first Lord of the Treasury? The duke said, that if the noble marquis had acted in a manner so extraordinary, he had been guilty of a heinous offence, and deserved to be punished; but the fact was not so, it was as he had first stated it. He produced two letters from the marquis; the one in answer to his of the 30th of January, and the other upon too trivial an occasion to be read to their lordships: he would, however, just mention, that it began with "My dear lord," and ended with the words "believe me to be your sincere and affectionate friend, &c." that circumstance, trifling as it was, the duke contended, was sufficient to prove that at the time the noble marquis and he lived in habits of intimacy and friendship, and consequently that, added to the circumstance of the meeting being held at his house, corroborated his assertion that they had frequent conversations together on the subject. The duke therefore appealed to their lordships, whether he had not cleared himself from the charge which had been brought against him by the noble marquis.

The Marquis of *Lansdowne* was perfectly satisfied with the letter he held in his hand, against which the noble duke had adduced Mr. Pitt's testimony. The testimony of a very respectable witness, but a witness who could speak only for himself. There was, therefore, letter for letter; but added to his letter, he had the benefit of his own assertion, and he did assert in the most unqualified manner, that he never expressed his concurrence with the noble duke's system of fortification. If it was urged that there was blame due to the minister who, nevertheless, suffered it to come before Parliament, he was free to say, that he thought there was great blame; but that was another question; and if the noble duke chose to make a motion upon it, well and good. If he was asked, why he suffered the plan to be proposed when he did not approve it, he protested he could not tell. Possibly it was for want of time, as it was the fortnight before the peace. A busy fortnight! But, as to the fact, he was willing to let it rest with their lordships to decide; and he did not care which way the decision went. He was glad that the noble duke had produced his letter, beginning with the address of "My dear lord," because it showed how pure he was, and how clear of any thing like resentment against the noble duke, for having thought proper to take the extraordinary step of quitting the Cabinet just before the peace came under consideration. He was above so mean a passion: early in life, when a boy, he was occasionally actuated by it, but he had gotten rid of it by living among good and great men; he had rooted it out, and he defied any man living to say that he had shown resentment on any occasion, in the whole course of his life. He imputed the noble duke's conduct to his resentment at what had passed in the House of Commons when the ordnance estimates had been under consideration. He assured the noble duke that the prejudices he entertained against him on that head were altogether without foundation. Those who had given their opinions in the other House, adversely to the fortification system, were men competent to judge for themselves, and well entitled so to do. They were not a faction headed by him, nor had he any share in directing their conduct in that House. If the noble duke knew how delicately he held himself towards those gentlemen, and ever had done, he would not have suspected him of influencing their conduct. But why did not the noble duke, when he felt himself hurt on that occasion, come fairly to him, and tell him the cause of his resentment? He was open enough surely; for openness was so much his characteristic, that he was open to a fault, and by the advice of his friends, on that very account, secluded himself from the world. The noble duke

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and he had lived on terms of sufficient intimacy to have encouraged the noble duke to come to him. He had dined with the noble duke, the noble duke had done him the same honour at his house; and that friendly intercourse might have gone on till now, had not the noble duke broke it off; why, the noble duke best knew; but he supposed on account of what happened in the House of Commons. The marquis pressed the noble duke to rise, and do him justice on the present occasion. He said he knew that the duke was a fortification difficult to take; he wished he would let him have the honour of achieving a victory: if however he would not, but would obstinately persist in maintaining that he had obtained his concurrence previous to laying his plan before Parliament, he should rest satisfied with the evidence of the noble duke's letter, and let the whole matter remain upon that ground.

The question for agreeing to the Address was then put, and the House divided: Contents, 74; Not-Contents, 24. The Address was then agreed with; and the Commons at a conference, were acquainted that their lordships had agreed to the Resolutions and also to the Address.

Joint Address to the King on the Treaty of Commerce with France.] March 8. Both Houses went up to St. James's, and presented the following joint Address to the King:

"Most gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in this present Parliament assembled, having taken into our most serious consideration the provisions contained in the Treaty of Navigation and Commerce, concluded between your Majesty and the Most Christian King, beg leave to approach your Majesty with our serious and grateful acknowledgments for this additional proof of your Majesty's constant attention to the welfare and happiness of your subjects. We shall proceed with all proper expedition in taking such steps as may be necessary for giving effect to a system so well calculated to promote a beneficial intercourse between Great Britain and France, and to give additional permanence to the blessings of peace.

"It is our firm persuasion, that we cannot more effectually consult the general interest of our country, and the glory of your Majesty's reign, than by concurring in a measure which tends to the extension of trade, and the encouragement of industry and manufactures, the genuine sources of national wealth, and the surest foundation of the prosperity and happiness of your Majesty's dominions."

The King's Answer.] His Majesty returned this Answer:

"My Lords and Gentlemen;

"I return you my thanks for this loyal and dutiful Address. The declaration of your sentiments, formed after the most serious consideration of the Treaty of Navigation and Commerce between me and the Most Christian King, affords me the truest satisfaction; and I receive with pleasure the assurances of your determination to proceed, with all proper expedition, in taking such steps as may be necessary for giving it effect."

Motion respecting such of the Sixteen Peers of Scotland as may be created Peers of Great Britain.] Feb. 5. Viscount *Stormont* expressed his conviction, that as the subject on which he should beg leave to trouble their lordships, related in a particular manner to their own privileges, he might rest assured of being honoured with their serious attention. He trusted that he should not be considered as acting contrary to order in the motion which he intended to make; viz. that the patents creating the duke of Queensberry and lord Abercorn peers of Great Britain, should be laid before the House. He hoped for the pardon of those lords for not calling them agreeably to their new titles; and as an apology, he pleaded that he was not present when they took their seats, and he did not recollect what those titles were. The subject, he observed, was of the first importance both to that House and to the nation. The rights and privileges of their lordships were involved in its consequences. The people's representation it would likewise affect materially; and therefore a subject of such essential magnitude required the fullest attendance which could be obtained; and the most effectual means to have this attendance, would be the regular mode always adopted on important occasions, which was to summon the House. He then moved for the House to resolve itself into a committee of privileges, to consider those patents, and that the Lords be summoned to-morrow se'nnight.

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Feb. 13. The House went into a Committee of privileges. The order of the day being read,

Viscount *Stormont* began by saying, that he had presumed to bring before the committee a business, which, as matter of privilege, was entitled to serious and early attention. He thought it a great public question, and should argue it upon large public ground. The constitution of Parliament now required, that the representation of the Scotch Peerage should be complete. Is it so? That is the question for the consideration of the committee. The motion is purposely calculated to put that point fairly at issue. Had the question any thing of legal nicety, he should be ill qualified to treat it; but it appeared to him that it lay in a narrow compass, and was to be decided upon a few plain, obvious principles, which he would endeavour to state. It must be admitted, that the right of representation was given to the Scotch Peers for the loss of an hereditary seat in Parliament. They who no longer suffer the loss, can no longer be entitled to their share of the compensation. It would be absurd to argue what is so plain; it is sufficient barely to state it. By the Treaty of Union, sixteen peers are to be chosen by those whom they represent, out of their own number. Is it not clear, from this stipulation, that they who choose must be in a situation to be represented; and those who are chosen, in a condition to be repesentatives? All elective representation in government, wherever it obtains, proceeds upon this uniform, invariable principle. There is an inconvenience, real or supposed, in your sharing in the government individually; therefore you shall share in it virtually by representation. The one being in lieu of the other, they cannot be co-existent. You cannot represent yourself. You cannot appear in person, and be represented by your proxy. The moment you are admitted to a personal share in the government, your right to share in it virtually, by representation, must cease and determine.

He then applied these general principles to the particular case. The peers of Scotland, at the Union, were thought too numerous to be admitted to hereditary seats in Parliament; therefore they were to be represented by sixteen of their number. Whether the mode was wise, whether the proportion was fair and adequate, it is needless now to inquire. Our ancestors, said he, came *hæc in fœdera*, and by their agreement we are indisputably bound. But he was sure their lordships were bound by inclination, still more than by the ties of duty, to see that agreement fairly and honourably fulfilled. Would it be so, would it be conformable to the true sense and meaning of the Treaty; would it be consonant to the principles of representation, to include, in the number of Scotch representatives, hereditary peers, who have no interest in that representation, and to whose condition elective representation cannot appertain? An hereditary seat, and a temporary seat by election, are not only different, but incompatible, for this obvious reason—the hereditary seat takes away the whole effect of the relation that should subsist between the representative and those who choose him. This connexion is stronger in some governments, in some countries, than in others; but it obtains universally in all, and is of the very essence of representation. In some countries, as in Poland, for instance, members are bound by the instructions of their constituents. It has been maintained, that this is the case in our constitution. He was not of that opinion; but suppose, for a moment, that to be the case, what would be the condition of an hereditary peer who was also a representative? Clashing duties might arise. His own judgment marks out to him one line of conduct, the orders of the electors another: which is he to follow? But, not to insist upon an idea of the constitution strongly maintained by others, but differing from his own opinion, he said, that in this country representatives were certainly so far responsible to their constituents in their conduct, that upon the opinion entertained of that conduct, their fate at a future election was decided, and the trust reposed in them continued or withdrawn. He observed, that the same prerogative that had raised two of sixteen to an hereditary seat, might, in possibility at least, extend the same favour to the whole number. What then would become of the Scotch representation? This way of putting it, makes the absurdity more glaring; but there is no real difference between the one case and the other; the violation of the principle of representation is the same in both. He then proceeded to show, that the cessation of right his motion contended for, follows by clear and necessary consequence, from the incapacity established by a resolution of the House in 1709, in the case of the duke of Dover's vote. It was then re-

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solved, "That a Peer of Scotland, claiming to sit in the House of Peers by virtue of a patent passed under the great seal of Great Britain, and who now sits in the Parliament of Great Britain, has no right to vote in the election of the sixteen peers." The two noble lords in question confessedly stood in that situation to which the resolution applies; and he who has not a right to vote, *à fortiori* cannot be elected. The determination was as solemn, as deliberate a one as any that stands on the records of Parliament. It rejected the vote of a person intimately connected with the lord treasurer, Godolphin. I barely mention this circumstance, said he, without laying any stress upon it. The resolution passed at a time when all that related to the Union was fresh in every man's memory, and the true meaning and intention of that great treaty were generally known. It passed in the presence of many of those who had been commissioners on both sides, actors in that great scene, and the Journals show that there was not a single protest. It has been constantly acted under, has stood unquestioned, unshaken, for near fourscore years. Such a precedent has all the weight and authority that can belong to any precedent whatever; and powerful indeed is the weight and authority of such precedents upon the mind of every considerate man, who knows the mischief of fluctuation, and the numberless benefits which arise from certainty of law, and stability and uniformity of decision.

He then observed, that although he argued from this resolution, though it afforded a very strong, and, he thought, irresistible argument in support of the motion, yet the motion itself went to the single point of representation. The present question is simply this, whether the two noble lords, by the change in their situation, do or do not cease to be our representatives? As in the Act of Union, and in the subsequent Act of the 6th of queen Anne, there are no express words that go directly to the point, it must be a question of construction upon the real intent and meaning of that part of the Treaty, to be decided by the rules of fair interpretation, and by the general nature and principles of representation, applied to the particular case. By an article in the Treaty of Union, the peers of the two countries, now made one, are to be comprehended under one general name. Had it conferred equality of right, all line of distinction would have been done away. But the British peerage now consists of two distinct orders of men, having different rights, and standing in very different situations indeed. The one retains all the privileges of peerage, sits in parliament, whose authority now extends over the whole united kingdom. The other has the inferior rights of the peerage throughout the whole kingdom, but is abridged of the most valuable right of all—an hereditary seat in parliament. They are therefore, in fact, two distinct orders of men, though called by the same name; the one having individually a share in the legislature, the other only a virtual share by representation. No line of distinction can be more strongly drawn.

The question, then, fairly stated, is this, What, according to the true meaning and intention of the Union, is to be the condition of him, who passes from the one order to the other, from the representative to the hereditary class? Why, clearly this—he acquires all the rights of an hereditary seat, and the rights of representation cease, as appertaining exclusively to that condition in which he no longer remains. The committee well know, that the right of representation is so far from being inherent in peers as such, that it was strenuously contended at the Union, that it was inconsistent with and repugnant to the nature of peerage. It certainly is a right incidental to the change of situation made by the Treaty of Union. From the situation in which that Treaty placed them, the two noble lords have emerged by the favour of the Crown, and are raised to those rights, to that condition in the parliament of Great Britain, which, in the parliament of Scotland, every Scotch Peer enjoyed. When we chose them, added he, they were in the same situation with ourselves; they were fellow sufferers. Being no longer in that situation, they can no longer be entitled to a share of that compensation, which was great to the aggregate body, for the loss it sustained. They now sit here in their own right; they cannot therefore sit in ours. They cannot be temporary representatives in a place where they have an indefeasible right to appear for themselves. We are proud of every connexion with them, but what is incompatible with their condition and ours. We hope these two noble lords, and all those who were formerly of our number, retain their former zeal for the maintenance of our rights. We hope they who

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have reached the shore will not be indifferent to the condition of those whom they have left behind.

He then stated particularly, the case of James duke of Athol, upon whom an English honour devolved in 1736, and who continued to sit in parliament as duke of Athol and baron Strange. He observed, that there never had been any decision, any question, any even the smallest discussion upon the subject. The whole had passed *sub silentio*. Why it did so, is, perhaps, at this distant period, rather to be conjectured than known. It probably was thought a thing of little consequence, as there was very little chance that a similar case, that of an old English honour devolving upon a Scotch Peer, should happen again. The case now in question could not happen under the then circumstances. The Scotch peerage were then smarting under the wound, which the rash and violent hand of party gave in the case of the duke of Brandon in 1711. In that situation of things, the peerage of Scotland might think it a point of little moment; but the case is very different now —the Scotch Peers are restored to their rights—the right of prerogative is restored. The royal favour may now flow in that channel, as freely as in any other. It was for many years totally obstructed by that resolution, on which, said he, I mean not to dwell; I could wish it buried in everlasting oblivion, were it not that that oblivion would extinguish the praise and honour due to those by whom the effect of that resolution was done away. I am persuaded that the same fairness and liberality of sentiment which governed upon that occasion, will govern now. I apply myself with equal confidence to every side of the House, persuaded that the justice of the cause will plead with equal force in the breasts of all.

I have purposely waved, said he, all considerations of policy, as the cause stands in need of no such collateral aid. But thus much I may say, the best, the wisest and most dignified policy will choose to do that which is attended with no possible inconvenience, rather than hurt the rights and wound the feelings of a considerable and respectable body of men; and if there were any shadow of doubt in this business, which, he protested, after the fullest consideration, he could not perceive; yet surely, even in that case, the fairest and most upright mind might incline towards that decision which is favourable to the interests of many, prejudicial to the real interests of none. The principles laid down in the preamble to the famous Peerage Bill was, that the proportion established at the Union was become unequal by the number of peers created since that period. This principle would lead to an increase of our number: we have no such right: we make no such claim. All we demand is, complete representation, such as the union gave us—such as the present constitution of parliament absolutely requires. It cannot be complete, if those are to be included in our number who have no longer any interest in the representation, and to whose present condition, I again and again repeat, elective representation, from the nature of it, cannot possibly apply.

He concluded with saying, that he was persuaded their lordships would upon all occasions, be disposed to interpret every article of the Treaty of Union in the fairest and most liberal manner; that fairness and liberality, which apply particularly to the interpretation of such a convention as the Union necessarily was. From the very nature of it, one of the contracting parties must, for the subsequent performance of the engagement, rely upon the honour and good faith of the other contracting party. This consideration will have more weight with the House than any stipulation that could be inserted in a Convention between two nations who remained independent, and in a condition to support their respective rights, and whose mutual interests had led them to the conclusion of a Treaty so advantageous to both. This fairness and liberality of interpretation, which belongs to the whole Treaty, can apply to no part of it more properly than to that which respects the peerage of Scotland. The change the Union made in their condition is known to you all. I hope, said he, you will keep in constant remembrance this day, that, before an event so beneficial to both countries could take place, the Peers of Scotland had great difficulties to conquer;—to the attainment of that desirable end, they made as large a sacrifice as ever was made by men. Had they retained their hereditary seats in parliament, at the expense of half their property, they had made a happy and noble exchange. No man can deserve an hereditary seat in the great council of a free nation, who does not consider it as the first of all rights, the most valuable of all possessions. That

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right, that inestimable possession, for reasons of public utility, our ancestors were contented to forego. In a word, they did that which has ever been counted a mark of exalted virtue—They chose rather to be little in a great state, than great in a small one. Deciding on the rights of the descendants of men so circumstanced, you would be disposed rather to extend than diminish those rights. We ask no extension; we demand nothing but what the Union gave. All we desire is, that you will not, in contradiction to the clear and obvious meaning of that agreement, to the sense entertained and declared of it by those by whom it was framed, and in contradiction to the clearest principles of representation, abridge our rights, by curtailing the slender compensation allotted us, for the greatest loss which men who have any dignity can sustain. The noble viscount concluded with moving, "That it is the opinion of this committee, that the earl of Abercorn, who was chosen to be of the number of the sixteen peers, who, by the Treaty of Union, are to represent the peerage of Scotland in parliament, having been created viscount Hamilton, by letters patent under the great seal of Great Britain, doth thereby cease to sit in this House as a representative of the peerage of Scotland."

The Bishop of *Landaff* [Dr. Watson] declared, that had the question appeared to him of nice legal discussion, he would not have presumed to trouble their lordships with any sentiments which he might entertain respecting it; since no man knew less of the law and its distinctions than he could pretend to be conversant with: but he was sufficiently informed of the history of the transactions on which the present question was grounded, to be satisfied that a moderate portion of plain common sense was equal to its comprehension. He imagined that there could scarcely be two opinions on the motion. It was clear, from the noble viscount's accurate and perspicuous reasoning, that his Majesty had been graciously pleased to bestow English honours upon two Scotch Peers. That he conceived to be an infraction of the Treaty of Union; but then, it was an infraction on the part of England, as the honours conferred were English; Scotland consequently could not find fault, nor did he mean to complain. On the contrary, he thought it extremely right that his Majesty, the source and fountain of favour and of distinction, should have the power of calling up to that House, men of large property and estate, men who distinguished themselves in the profession of the law, the army, and the navy, men whose public services in the other House of Parliament entitled them to honours and rewards, and more especially Peers of Scotland, descended most of them from old and noble families, who, consequently, could add the lustre of ancestry to their other eminent qualifications; for, whatever might be said of ancestry, no man despised it, but he who had none to value himself upon; and no man made it his pride, but he who had nothing better to boast of. On the present occasion, he congratulated their lordships on the accession to the British Peerage of the two noble lords, not more dignified by birth, than by their character and their merit. With regard to the distinction so forcibly drawn by the noble viscount between individuals and virtual representation, it was a discrimination almost too evident to require farther elucidation; but if it were supposed that a member of the other House being called up by patent to a seat among their lordships, should, nevertheless, insist upon keeping his seat as a representative of the people at the same time, a stronger instance of the truth of the argument, and of the absurdity of the fact upon which it rested, could scarcely be given; yet, as extreme cases sometimes removed all doubt, his lordship said he would beg leave to bring forward as a supposition, that when the Act of Union first passed, the Queen had chosen immediately afterwards to create the whole of the sixteen Scotch Peers British Dukes. Was there one of their lordships who would not in that case have agreed, that the Peerage of Scotland had a right to complain, that their representatives had betrayed their trust, and bartered their Scottish titles for English honours? So extreme a case, undoubtedly, was not likely to happen; but it put the question in so forcible a light, that after having so stated it hypothetically, he trusted their lordships would with him concur with the motion, and that the proper forms would in consequence be forthwith complied with, which were necessary to be resorted to previous to the Peerage of Scotland proceeding to an election of two new representatives in the room of the earl of Abercorn, now lord viscount Hamilton, and the duke of Queensberry, now earl Douglas.

The Earl of *Moreton* observed, that

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notwithstanding the great abilities and authority of the noble viscount, and the right reverend prelate, he thought it his duty to declare, his mind revolted at the motion; and the more he endeavoured to investigate it, and ascertain its precise tendency, the more he was confirmed in his first opinion, and the less inclined he found himself to abandon the judgment which he had adopted. He proceeded to state his construction of that section of the Act of Union that refers to the case; and contended, that unless they were rendered legally incapable of representing the Scotch Peerage during any part of a session, they were, by their constitution, elected to serve the whole session out till the Parliament either naturally expired or was dissolved.

The Earl of *Fauconberg* supported the motion, assigning his reasons for thinking their lordships bound in justice to declare two vacancies in the number of representative Peers of Scotland. He concluded with declaring, that he thought this country indebted to Scotland; and he heartily wished that he could say as much of another part of the British dominions.

The Earl of *Hopetoun* went through the history of the parliamentary transactions at forming the Treaty of Union, and stated the reasons why the acts were left as they were.

The *Lord Chancellor* opposed the motion, as going upon a principle not recognized by the Treaty of Union. He solemnly conjured their lordships to consider how much their dignity, their honour, and their character, were concerned in keeping their tribunal pure, untainted, and unsuspected. He spoke of the humiliating degradation which must inevitably ensue, if they deviated from the strict line of their duty in the delivery of a decision in a case, which, though of great weight and importance, was nevertheless connected with future elections, by recalling to their minds the degree of rankness and corruption, which the tribunal of another place had arrived at, in determining cases of election, insomuch that it had been at last found absolutely necessary to take the jurisdiction out of their hands. He declared that he could not avoid mentioning, in terms of praise, the unimpeached rectitude of the proceedings of the new court to which he alluded, and the justice of their decisions in general. Their lordships were not to listen to arguments grounded on supposed or real inconvenience to this or that set of men; nor were they to consider what an act of parliament should have been, but what it was. They were bound to abide by it, and to comply with its letter. He added, that he must take the liberty of reprehending the noble viscount for using the sort of argument with which he had introduced his motion; and he declared that the right reverend prelate should have taken care to have read the articles of the Treaty of Union, before he had ventured to let loose his opinions upon the subject. He insisted upon it, that the giving an English title to a Scotch peer, could not take away or diminish any one function previously possessed by a Scotch peer; and that he was as fully capacitated to continue the representative of Scotland after receiving an English honour as before. He instanced the case of the duke of Richmond, who, as duke of Lennox, was entitled to and enjoyed all the privileges of a Scotch duke. He stated the facts which distinguished the Act which passed in Scotland prefatory to the Act of Union, and after describing the various circumstances of the whole transaction, summed up a long argument, with laying down certain legal premises, which he challenged any noble lord to contest with him. He argued that as the acts of constituting what is generally termed the Treaty of Union stood, nothing short of a legal incapacity, (which letters patent creating a Scotch lord an English peer, he contended were not) could put any of the sixteen Scotch peers out of the situation of representative peers, till the Parliament should be dissolved.

Lord *Loughborough* said, that from the word 'tribunal,' and the manner in which the learned lord had prefaced his speech, he had been inclined to imagine he had mistaken the question before the House, and that it was a judicial instead of a political and preliminary proceeding. Under this impulse, he had looked to the table, to see if any petition had been presented, and turned his eyes to the bar, to observe if the counsel and agents were below it. Nothing could be more distant in its nature from a judicial proceeding than that under consideration; not that he had any, the smallest objection to having it judicially treated, if the learned lord thought proper. All he desired was, that a clear, unembarrassed, simple, obvious proposition, which the minds of every order of men were fully competent to comprehend and to decide, should not be wrapped up and

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disguised from their lordships view, by the mode of treating it. His noble friend who made the motion, distinctly told their lordships the nature of the case which was submitted to their judgment and their justice: the right reverend prelate opposite to him, and the noble earl (of Hopetoun) had also fully explained it. Let these explanations be considered, and let the true spirit of the Treaty of Union be applied to it, and there was not one of their lordships, he conceived, could hesitate a moment what part to take. Let them ask themselves, what possible injury they could do by voting for the motion? Would they diminish any noble lord's rank, curtail his powers, or in any one shape whatever trench upon his privileges? On the other hand, what unnecessary injustice would they not commit, if they decided against the motion? Did the Treaty of Union, or did it not, clearly, explicitly, and undeniably mean that Scotland should send sixteen peers, as the representatives of her peerage, to the House of Lords? He ever would maintain that the intention and spirit of every statute, the penal statutes alone excepted, were to be looked to for the construction. In penal statutes, the strict letter of the Act must be followed. But in a case like the present, the intention and spirit of the Treaty of Union were to be taken, as the best guide to the right construction. His lordship entered into a definition of the statutes alluded to; mentioned what the peculiar elective principle of the law of election in Scotland was —combated the Lord Chancellor's legal arguments,—expatiated on the case of the dukes of Dover, Athol, &c. and answered what the Lord Chancellor had said respecting the duke of Richmond, and the rights to which his title of duke of Lennox entitled him as a Scotch peer.

The question being called for, their lordships divided: Contents, 52; Not-Contents, 38. The committee being resumed, lord Stormont's second motion, relating to the duke of Queensberry, was carried without a division.

Debate in the Commons on the Lottery Regulation Bill.] Feb. 2. Mr. *Rose* presented to the House, "a Bill for amending and rendering more effectual the laws now in being, for suppressing unlawful Lotteries, and regulating the sales of Lottery Tickets." He begged leave to call the most serious attention of the House to the circumstance, that as a result of the present existing law, the jurisdiction was lodged in the hands of justices of the peace; and that therefore, one great object of the present Bill was to change the jurisdiction, and vest it with the judges of the courts at Westminster. As the law stood, a justice of the peace on complaint being made of an offence against the Act, issued his summons, calling upon the offender to appear before him, and hear and answer the charge. The offenders generally employed counsel, and often defeated the object of the Act, and it was in their power to do it in this simple way;—If a summons was issued from a magistrate in the city, the offender had only to move into Westminster to evade the summons, and defy the power of the magistrate, and so *vice versa*. The Bill therefore enacted, that a party charged with an offence against the laws in being, should be liable to be apprehended by a *capias*, and brought before a judge; and if he could not instantly and upon the spot procure bail, it would follow, that by virtue of the Act of the 17th of the late King, he must suffer all the pains and penalties inflicted upon rogues and vagabonds.—The Bill was read a first and second time.

Feb. 5. The House went into a Committee on the Bill. When they came to the clause legalizing the insurance of whole tickets under certain restrictions,

Mr. Alderman *Newnham* expressed his fears, that the Bill went to authorize a species of gambling highly prejudicial to the lower class of the people.

Mr. *Rose* acknowledged, that games of chance ought to be stopped as far as it was practicable, but that the present restraining Lottery Act was in most instances invaded. The process was as yet by warrant from a justice of the peace, directed to a constable, to distrain the goods on the premises. The return to this warrant was generally *nulla bona*, as the office-keeper had only to change his settlement. By the present Bill, a *capias* would issue in the first instance, and the party become held to bail for 500*l*. The sale and value of tickets would be increased, which of course would prove an advantage.

Mr. *Francis* observed, that he could not avoid expressing, in the strongest terms, his censure against the indecisive, loose, and inefficacious manner in which this Bill appeared to point at the extirpation of the very serious and alarming evil of lottery gambling. He did not see the

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good policy of suffering this species of insurance; for under this mask, the whole of the villainy, which the public so justly complained of, would be felt in its utmost degree. He mentioned the case of a woman (till then possessing and deserving an excellent character) in his own house, who had plundered him to the amount of 200*l.*, which sum, it was found, she had squandered in insuring tickets, and in buying chances in the Lottery, instead of applying it, according to his order, to the discharge of several of his tradesmen's bills. The consequences were complete ruin to the woman; for in despair she committed suicide, in four days after the detection. For this, and several other reasons, exclusive of the impossibility of fairly regulating gambling, he should oppose the Bill.

Mr. Alderman *Newnham* remarked, that as a certain proof how much the present Bill would cherish and extend the nuisance, which it professed to remedy, the newspapers of that day contained numerous advertisements from fellows, who, in the contemplation of this Bill, were seeking for shops in every corner of the Metropolis; and thus every clerk, servant, and distressed adventurer, might continue to insure with all kinds of impunity, except in the last dreadful instance of irrecoverable ruin, if not personal destruction.

Sir *Grey Cooper* was convinced, that those who drew the Bill meant to correct the evil to which it alluded; yet he doubted whether the provisions would have that effect. It was certain that insurance was now prohibited. By this Bill it was again to be revived, and under this authority every evil growing from that abuse might be apprehended. Besides, what necessity could possibly exist for authorizing gambling?

Mr. *Steele*, remarking that the office-keeper was liable to be informed against by the party, added, that the only advantage of such a circumstance was to render the laws effectual. Might it not, therefore, prove advisable to wait the result of the Bill? and the rather, as the lower class of people could not venture their pittance, because the agreement must become void, unless the name of the person and number of the ticket were expressed in the agreement.

Mr. *Bearcroft* commended the Bill, as likely to bring into action very rigorous penalties against that species of offence which was most injurious, and do justice against small gamblers. The present laws were in fact a dead letter; they were not brought into inefficacy, and therefore some farther and more rigorous measures were necessary. The authority given for insuring whole tickets was not likely to be felt as an encouragement of gambling. The insurers of tickets to that amount were not the people whom it was the end of the Bill to prevent from gambling. It was certain, that let the Parliament inflict what rigours it might, people who gambled to that amount would find the means of doing it in spite of Bills. But the evil which they all complained of was, that lottery-office keepers drew in the lower classes of the people by a number of small chances, which, though trifling when separately considered, amounted to an immense sum, and at the same time had no efficacy in adding to the emolument of the public. This evil it was intended to crush, and this the Bill would effectuate. The public would gain by the insurance of whole tickets, for it would raise their price in the market; nor could the inferior ranks of life engage in this particular species of gaming.

Mr. *Dempster* trusted that no situation of distressed revenue would ever induce the nation to degrade itself by taking into its hand, and having a share in a gambling box. The learned gentleman's argument, that no rigours would be sufficient to prevent the insurance of whole tickets, if it proved any thing, proved too much, for it might with equal truth be applied to the small gambler as to the rich. The passion was the same in all ranks; and surely a general prohibition under the present penalties would be the most efficacious system. What, for instance, could prevent a person's insuring a share of a ticket, when the keeper of the office was in league with him? Or was it not possible, with impunity, to break and divide a ticket amongst a multitude of inconsiderate adventurers?

Mr. *Fox* said, that, possibly, as it was a clear and indisputable truth, that it was totally impracticable to crush gambling *in toto*, it might be expedient to establish a mode by which the public could reap an advantage from the general passion. But nothing was so clear as that this should be guarded by every possible means against the evils which sprang from small gambling. The persons who could afford to gamble so high as to give 15*l.* for a ticket, which was only

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worth 10*l.* would be very few in comparison of the number who could give one guinea for that which was only worth half a guinea. This showed at one view the impolicy of the present clause; for it enabled people to enter into a species of gambling, undoubtedly worse than that of buying tickets, but which, as it tended to lessen the first risk, was a considerable invitation, and was a sort of gambling in which they could indulge themselves with a smaller stock. Grant this licence, and there was no saying where the evil might stop. The same ticket might be handed about through a hundred offices, for the purpose of insurance, and consequently reducing the gambling to a price sufficiently small to be within the reach of the lowest orders of the community.

Mr. *Pitt* said, that he was ready to acknowledge, that although a lottery was in a certain degree an advantage and resource for Government, yet it was always attended with one bad consequence, viz. that in some measure it promoted the spirit and practice of gaming. The present Bill went to secure and increase as much as possible this advantage to the state, and at the same time to repress the evils attendant upon all lotteries. By allowing the possessors of tickets to insure their property, they would naturally rise in value, and by that means Government would be considerably benefitted, and an inducement be held out to persons to keep offices for the sale of tickets, which they never could be expected to do, were they to have no emolument but the bare profit on the tickets: whereas, by restricting all insurances in the manner the Bill did to whole tickets, and those in the actual possession of the persons making the insurance, the low gambling, so much complained of, would be prevented. But yet, if on trial it should be found that the good effect that would necessarily result to the public, by allowing insurances in a limited way, should be attended with the bad consequence of encouraging indiscriminate and illegal insurance, then he confessed that no advantage to be derived from the one, could compensate for the evil resulting from the other; and in that case it would not admit of a doubt, but that every possible method of legal insurance ought to be abolished, to prevent its being a cloak for such as was not so.

The committee divided, when the numbers were, in favour of the clause standing part of the Bill, 115; Against it, 78.

Feb. 7. On the motion for the third reading of the Bill,

Mr. *Fox* remarked, that he felt himself obliged to withhold his approbation from the design to legalize the insurance on whole lottery tickets, which, he understood, had given great alarm without doors, and was likely to open a road to infinite abuse, by inciting and keeping alive that spirit of gambling among the lower orders of people, which it was their duty as much as possible to check. The more he considered the matter, the more he was convinced of the necessity of actually prohibiting all sorts of insurance upon tickets. He must, besides, observe, that passing such a bill as the present, just on the eve of the drawing of a lottery, had a very unseemly appearance, and gave rise to a good deal of suspicion. It ought, if such a bill were necessary, to have been brought in during the preceding session, when it could not have been liable to the surmises which naturally arose upon the singular period of time at which the present Bill had been brought forward. At present there was every reason to imagine that insuring would increase with a shameful rapidity if the Bill passed. The price of tickets had already been considerably affected by what had passed upon the subject; new lottery-offices were taken, and there was every symptom that the practice of insurance would increase inordinately. Under the apprehension of these approaching circumstances, he was resolved to take the sense of the House, and oppose the whole Bill, unless the clause was left out which related to the insurance of whole tickets.

Mr. *Pitt* answered, that it was the professed object of the Bill to put an end to that practice of insurance of all sorts, which, in defiance of various acts of parliament, was carried on with the most undeniable notoriety. Such kinds of insurance were productive of the most mischievous effect to the community, without affording any one advantage; on the contrary, the allowing the insurance on a whole ticket, would produce the solid advantage of making the public gainers by the lottery, to the amount of many thousand pounds, without producing any of the mischievous effects which would follow, were general and unrestrained insurances permitted. With regard to the argument, that the Bill ought to have been brought in last session, the fact was, that a bill, professing for its object the

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suppression of the practice of lottery-ticket insurance, had then passed that House, and was rejected by the Lords; and, therefore, another bill, of a similar nature, could not be introduced in the same session.

Mr. Alderman *Townshend* said, that the Bill introduced last session, for suppressing insurance on lottery numbers, had been shown to Government, and was, in fact, their bill, though conducted through that House by an hon. gentleman and himself. It was a severe, but a sound remedy for the evil. The Bill had passed the House with little debate or opposition, but it was rejected by the Lords. It was a strange government, he thought, which had not the power of making one branch of the Legislature support the other; but the fact was, that a great lawyer happened to be ill at the time the Bill was sent to the other House, and it was there thrown out, after a single flaming speech had been delivered against it. In his mind, Government would have acted wisely, had they brought in that bill again, instead of the present, which would not answer the end proposed; it would open a door to daily abuse, and the consequence would be, that insuring in the lottery would prevail to a greater degree than ever. He should vote for omitting the clause, because the idea of insuring whole tickets leading to no mischief was absurd; any six or seven could purchase a ticket, and insure it over and over; or a person willing to gamble by insuring, could borrow a ticket of any lottery-office keeper, show it to the insuring-office keeper, and tell him it was his property, and then insure it without the possibility of any person being able to come at the facts, or recover the penalty. Nor was it possible that the gain of any given number of thousand pounds to the public could prove an object, compared with the destruction of the morality of the people.

Mr. *Fox* proposed to defer reading the Bill a third time, till the day following; but this being rejected, the House divided on Mr. Fox's Motion: Yeas, 126; Noes, 97.

The Bill was then read a third time, and passed.

Debate in the Lords on the Lottery Regulation Bill.] Feb. 8. The Lottery Regulation Bill was read a first time. On the motion for the second reading,

The Earl of *Derby* contended, that its introduction was extraordinary, and its principle new and alarming. It seemed to him, to have for its great object, the rise of lottery tickets, to benefit jobbers; and a licence to great gamblers, under the idea of destroying those of inferior note. He was surprised how ministers could so incautiously be led into this error, not to give it a worse appellation. If gambling in the lottery was illegal among the lower class, it surely was illegal among the higher order of people; and therefore should be totally, and not partially suppressed. The argument, that this Bill was for the benefit of the public, was absurd, as it raised the price of lottery tickets. For as all the tickets were disposed of by the original subscribers, there certainly could no profit arise to them by enhancing the value at this time. It was also very clear that the lower class of people would not be deterred by this Bill, from gambling, because it was an easy matter to divide tickets into small shares among clubs, each to bear his proportion, and to insure the whole. Had the public benefit or the interest of the lower class been the object, another kind of bill would have been framed. But it was pretty evident that the whole was a job to serve somebody.

Lord *Sydney* replied, that merely in his official capacity had he moved the second reading of the Bill. He was acquainted with no gamblers; he thanked God, that he never associated with that description of men, let their rank or situation in life be ever so high. The company he kept was of a different complexion. As to the Bill, it was, in his opinion, founded on the principle of suppressing that most pernicious vice which had ruined not only a number of the lower class, but those of high and elevated rank in society.

The Earl of *Derby* said, that he must intreat ministers to give some plausible colour of pretence for bringing in the Bill —at present it stood without one saving argument for its support. Detrimental it certainly was; for even already, under its visionary influence, had the spirit of gambling gone forth; and tickets had risen to near 19*l*.

The Earl of *Hopetoun* contended, that the Bill was not indefensible; and that even if it should be proved that it did countenance gambling, this spirit stood confined by it within the higher classes of life, because only the possessors of whole tickets could insure.

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Viscount *Stormont* congratulated lord Sydney upon the virtuous circle of his acquaintance; which, however agreeable to that noble lord, must be very confined indeed, if every man was excluded from it who made a bet above 10*l*. It was a narrowed limit in high life, because it exempted the noble lord from the society of some of the first, and most of the greatest characters in Europe. The whole Lottery Bill in its present form, reminded him of the story of the man who made two holes in his door; one for the great, and the other for the little cat,—which was exactly the case in respect to this intended act, for the lesser insurer would, no doubt, creep out of the hole that was left open for the great one. The Bill, in fact, was neither more nor less than a licence to gamblers. He had often, in those foreign countries which he had visited, been witness to the dismal effects of lotteries on the lower class of people. They encouraged vice in its worst shape, and drove distress to despair, that ended frequently in suicide.

The *Lord Chancellor* declared, that as far as he had been able to attend to the Bill, he thought it aimed at stopping the spirit of gambling among the lower class; but whether the clause which allowed insurance would, as had been stated, open a door for insuring shares, it was evident the Legislature meant no such thing; for, the name of the insurer, the insured, the number of the ticket, the lottery to which it belonged, and the premium of insurance, were all to be expressed on the policy; and besides, the persons having the liberty of making such insurances, were to be licensed, and give bond not to transgress.

The Earl of *Carlisle* remarked, that the Bill was calculated to serve the present possessors of tickets. He thanked lord Sydney for the hint he had just thrown out respecting the circle of his acquaintance, and the abhorrence in which he held all kind of gamblers. He felt the rebuke, for he had been unfortunate enough to have had some acquaintance among men who betted more than 10*l*. He bowed to the severity of the remark, and kissed the rod; but he begged leave to remind the noble lord that his situation at this critical moment as a minister, placed him in that of a gambler, playing for high stakes indeed, sums which perhaps a nation must pay; and broad as the noble lord's shoulders were, he should take care that the load did not bring him down.

The Bill was then read a second time.

Feb. 9. The House resolved itself into a committee on the Bill. On arriving at the clause relative to the insurance of whole tickets,

Viscount *Stormont* said, that nothing could prove more detrimental than the effects of gambling in every shape; and surely measures which tended to promote its spirit should, in whatever shape they came under discussion, meet with their lordships opposition. The Bill under consideration was in its avowed intention, and so far as their lordships had approved of its clause, framed for that purpose. After establishing various regulations of a salutary nature, it seemed all at once to deviate from its primary object, and by a strange proposition to set aside all the good which might have been expected from it: for, he could consider the clause under discussion in no other light than as one which would, instead of suppressing, give countenance and vigour to that spirit of gambling which was the bane of society. It had been alleged that insurance in some instances, and particularly in trade, was beneficial, as it proved a security to the merchant and the lesser dealer, and enabled him to support himself with vigour, under the severer blows of fortune. This he readily admitted; but was this species of insurance in any respect to be compared with a scheme, which was so undefined in its nature, and which even in theory seemed fraught with so many evils? Insurance in commerce tended to promote industry, and to secure its fruits; but insurance in a lottery, whilst it held out an encouragement to such speculation, was fitted to produce no such effect on society. Nor was the argument in favour of the plan of insurance arising from the consideration, that it would prove an incentive to subscribers in future to come forward, at all to be admitted on the present occasion. The fact was, that Government had never been at a loss to fill the subscriptions. The case had been uniformly the reverse. In other countries, and more particularly in France, the plan of the lottery was much less inviting than in this kingdom. It exhibited an immense possible advantage, but the chances of obtaining it, were almost as one to infinity. Still, however, there never had been any want of subscribers, and the profits arising from it, though no insurance was admitted, had been uniform and great. This, therefore,

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evidently showed that insurance was no necessary spur to lottery enterprize. It had been, in fact, proscribed by the statutes of this country, and he was suspicious that it was not from the purest motives the present attempt was made to revive it. He therefore should object to the clause.

The *Lord Chancellor* contended, that the plain state of the question was perfectly reconcileable to the primary notions of justice. It was, simply, whether a person, who had embarked part of his fortune or property in a particular contingency, was to be admitted to the liberty of insuring it, if he so chose, against the hazards arising from such a situation. This was the real case, nor could he conceive that a toleration, or a legal authority should be given to one set of individuals, in certain instances of contingency, and refused to them in similar ones. The noble viscount had alleged, that in other countries, insurance was prohibited, and that in this kingdom it was contrary to law. He did not really know what was the legislation of France on this point, as he was no French lawyer; but he imagined, that if insurance in that country was not prohibited by statute, it would be as legal there in the instance of lotteries, as in any other. With respect to the code of laws of this kingdom, the prevention of insurance by statute, was rather a new than an old act of the Legislature. He went into the history of lotteries. They had obtained as far back as the time of Elizabeth. In the reign of William and Mary, they had been voted nuisances. In Queen Anne's reign, they had been revived. They had been used as instruments of state necessity, till the present period. In the 22d of the King, the transaction of insurance had been declared illegal; but previous to that period, he should very much doubt, whether in a process of recovery of insurance on a lottery ticket, the person suing would not have obtained legal redress.

Lord *Loughborough* reprobated the clause, as beyond measure detrimental. No care had been taken to guard against the spirit of gambling in its most alarming extent. The learned lord had endeavoured to put a very plausible appearance upon the measure, by affecting a simple statement of the question; but he hoped their lordships would not be misled by so unfair and so unqualified a definition of that measure, which ought to be an object of their most minute attention. The learned lord had asserted, that it was a mere insurance of a species of property against a particular contingency: and as property was authorized by law to be insured in mercantile affairs, and such other circumstances, why ought it not to be legal in others? If one person, sending his property to the West Indies, was empowered to insure it against sea risk, why ought not another to have the same legal privilege, when embarking it in the lottery, which was an object established for the direct purpose of state advantage? But he would appeal to the learned lord whether the two instances were parallel? In the case of insurance of merchandize, every precaution was taken by the law, that the insurer should be paid in exact proportion to the loss he had sustained. For this purpose, he was obliged, if required, to make affidavit with respect to it, or at least to exhibit proper proof of the damage he had incurred. But was there any provision made in the clause under consideration for that purport? By no means. On the contrary, gambling was to be legalized in its utmost extent. Every person holding a ticket might open a policy upon it, and after insuring it in one office, might insure it in another, and, in fact, derive all the advantages which accrue from a multiplied insurance. The case, however, was totally different with respect to mercantile insurance, for no person in such transactions could derive any advantage whatever, except such as arose from real loss. To illustrate this idea, he would suppose that A. possesses the ticket No. 100. A. wishes to insure it, and to make all he can of it. B. enters into a bargain with him, and the policy is formally concluded. But A. is not merely satisfied with this transaction: he wishes to derive an accumulated advantage; he, therefore, goes to all the lottery-offices in London, and insures it over and over again. Was there any thing to prevent his doing this? In the event of a blank coming up, was there any thing to preclude him from deriving all those advantages, which must arise from his various and multiplied insurance? There was nothing: and supposing even that he was not possessed of the real property of the ticket, what was to prevent his borrowing one? The lottery-office itself would lend him a ticket. A person at the door of the office, for a small premium, would afford him a temporary exhibition of one, which

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would be all that was necessary; and he did not even doubt, but that one lottery-office would be so friendly towards another, as even to lend tickets to persons who wished to make insurance at that repository with which it maintained so friendly a communication. There was, in fact, in the clause, no provision against this extravagant spirit of play; and if it were not suppressed, tickets would be transferred with the same facility as a dice-box. The circumstance struck terror every where, and led even those who were not too much inclined to superstition, to form strange conjectures relative to its origin. Reports of a curious nature had obtained on this subject. In the course of discharging his duty he had come to the knowledge of this circumstance. As he had been coming down from the bench yesterday in Guildhall, where it was his office to do justice, two persons, of grave appearance and decent habit and deportment, had come up and addressed him on the subject of the Lottery Bill now pending in Parliament. They stated, that it had originated in the manœuvres of certain holders of tickets, who, finding a stagnation in the market, had desired the measure, and prevailed so far as to have it introduced into Parliament. He asked on what grounds they founded their opinion; they stated the following, viz. That the tickets had remained for a considerable time at the same price; but that since the matter had been agitated in Parliament, they had risen nearly 30*s*.

The *Lord Chancellor* said, he did not mean to contend for the clause in its present form; but he was of opinion that it was proper and necessary, if it was qualified so as to prevent improper gambling or wagering. With that view he proposed an amendment to the following purport: "That every ticket insured shall be deposited in some place, to be appointed by the Commissioners of the lottery for that purpose, which ticket, with its insurance, shall be assignable."

The Committee divided on the Amendment: Contents 33; Not-Contents 7. The Clause was then agreed to; and on the following day, the Bill was read a third time and passed.

Debate in the Commons on a Motion for hearing Counsel in support of certain Petitions from Fort William in Bengal.] **Feb. 20.** The House having resolved to go on the 27th into a Committee on the East India Judicature Acts,

Mr. *Dempster* moved, that certain Petitions from the civil and military servants of the East India Company, and others, the British inhabitants of Fort William in Bengal, be referred to the said committee; and also that they be at liberty to be heard by their counsel, in support of the said petitions.

The *Speaker* expressed some doubt, whether the petitions could be thus heard, consistently with the forms of the House, and wished that a precedent might be adduced, by which the House would stand justified in giving their assent to the proceeding.

Mr. *Dempster* begged leave to adduce as a precedent, the hearing of counsel in favour of the shopkeepers against the Shop-tax. There were gentlemen lately arrived from Bengal to be examined, he believed, touching the merits of the Petition; but even if there were no precedents, he contended that the present Petition ought to be heard. Britons had a right to be heard against the passing any law which might infringe on their natural privileges. The petitioners, however, could not avail themselves of that right by reason of their distance; their right now to be heard could not be disputed on any grounds supported by justice. He then quoted as a precedent the hearing the Manchester merchants by counsel, against some acts relating to the American trade, and the London merchants being permitted to be heard by themselves (though not by counsel) against the Bank.

The *Speaker* answered, that in his opinion, precedents of this nature were not applicable to the present petitions, unless the hon. gentleman would say that evidence was to be produced, then the precedents would apply; for evidence was produced in support of those petitions. He wished the House to weigh the matter well previous to their establishing a precedent.

Sir *James Erskine* contended, that every person enjoyed an indubitable right to plead against any act which might menace the diminution of his privileges; and if that right was established, could it, consistently with justice, be denied to those whose remoteness prevented an earlier appeal? If no instance could be found on the Journals in favour of the present petition, that circumstance need not prove an exception to hearing the petitioners by counsel; they could not be heard by themselves; they therefore prayed to be heard by their

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counsel, which was the proper agency through which their complaints could reach the House.

Mr. *Burke* declared, that all Englishmen were fully privileged to pray against the passing of any act which might affect their rights; the House would grant permission; its proceedings allowed that objections should be stated against any act prior to its being made a law; it would not be common justice, then, to deprive the petitioners the privilege of being heard by counsel against a bill which was passed into a law previous to their knowledge of such law being intended, and against which they had no opportunity to demur, they being in a remote part of the globe. If they were denied being heard against the Bill, on account of their not objecting to it previous to its being made a law, it would be saying to them, Our precedents admit you to object, but nature debars you. He was as much for a strict observance of the precedents of the House as any gentleman could be, as long as they were supported by reason; but technical rules should be done away whenever they were contrary to justice. If the present was to be considered as a new case, old precedents should not be brought against it. Trial by jury, and other valuable privileges, ought not to be done away without a hearing. No man should be proceeded against without permitting him to speak in his own vindication. There was no country, no government in the world, however despotic, but admitted the petitions of individuals; even the Grand Seignior, when going to mosque, received petitions from the meanest of his subjects; and he should entertain no high opinion of his piety, if such petitions were refused.

The *Speaker* observed, that it was not matter of right for any petitions to be heard by counsel; it was a discretionary power in the House to admit that indulgence; if it was a matter of right, it would not be common justice to prevent the petitioners that benefit.

Sir *James Erskine* contended, that there could be no danger in admitting the present as a precedent; if it was discretionary, none could gain the indulgence but those whom the House judged deserving.

The *Speaker* wished that every case, and every precedent most analogous to the present, might be brought forward to enable gentlemen to decide on the propriety of establishing this as a precedent. He begged pardon of the House; he did not mean to give his opinion on the merits of the petition, he only meant to keep the House to its rules, and warn them of the forming a precedent.

Mr. *Drake* complimented the Speaker for his interference. He thought it would not be prudent, in so thin a House, to form a precedent; he wished that the present dispute might be revolved in a full House. If the precedent was entered into now, it would hardly be looked upon by many members as a precedent.

Mr. *Dundas* was of opinion, that there were many reasons for refusing to comply with the prayer of the petition. Many of the objections, he observed, which were there stated, were entirely done away by the Act of 1785. He had no objection to see a proper spirit in men who were speaking of their grievances; but he disliked the language of the present petition, which he said was such as should not be directed to the House of Commons, from men who spoke with arms in their hands. Those gentlemen, however, who had signed the petition, had they known the amendments which had taken place, he was convinced that they would have retracted their demands; and as to those who had gone out to India since the passing of the Act, they had accepted of the clauses as a security, and not an oppression to those who meant to act fairly. Yet he had no objection, if it was still insisted on, to discuss the principle of those acts; it was to be supposed, that if any individual could be looked on as peculiarly interested in the propriety of those measures, he must look on himself to be that person, and so fully was he convinced of their propriety, that he would readily expatiate on that theme for a day, for two days, or for a week, if so long it pleased the hon. gentlemen opposite him, to continue their objections to the tenour of those acts.

Mr. *Burke* said, he had not the smallest doubt but the right hon. gentleman would find a peculiar degree of pleasure in defending the justice of these measures; it was a theme which was confessedly dictated by self-love, and was a kind of justice which all are fond to pay: but when the right hon. gentleman talked of his being particularly pledged, it included no more than this modest assertion—that the measure must be just, because he was the minister of India. But with respect to the present objections to the measure—if the language of the petition was displeasing to the right hon. gentleman as coming

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from men in arms, that might possibly have been a good reason for rejecting the petition; but when it was once received, that objection was of course given up, and it now mattered not whether they originally came, in the language of Milton, "beseeching, or besieging," they were now entitled to a hearing. He was not at all surprised to hear that gentlemen going out to India, had approved of these acts. Those who had favours to ask, were easily persuaded—and those, who perhaps could not go out but through the interest of that right hon. gentleman, would readily yield their conviction to his arguments; eloquent as he was by nature, there was then a superior eloquence in his situation—a persuasion in his official rank, which few adventurers so situated could withstand. The House, however, was not now to deliberate on the opinions of gentlemen going to India, but on the complaints of those who were already in that country, and whose supplications were poured out to them for hearing and redress.

Mr. *Dundas* denied that the opinions of any gentlemen on these acts had been extorted or perverted by his situation, as he had no power to send any person in any office to India.

Mr. *Burke* replied, that though the right hon. gentleman might not be possessed of any direct power to that end, yet all who know his influence with the Court of Directors must own that indirectly he might effect a great deal; or, if this was denied, he was certainly possessed of a power nearly equivalent—that of instantly recalling any person who met his displeasure.

The motion was agreed to.

Debate in the Commons on the Bill to prevent frivolous and vexatious Suits in the Ecclesiastical Courts.] Feb. 23. Mr. *Bastard* rose and remarked, that as his motion last session, for leave to bring in a Bill to reform the Ecclesiastical Courts, had not proved so far successful as to occasion the introduction of an act for the full accomplishment of this salutary purpose, he should again beg leave to fix the attention of the House upon a subject extremely important in its nature. As the House had been already pleased to honour his former motion with their unanimous concurrence, he might without offence infer, that they were thoroughly convinced of the necessity of the measure. Mr. Bastard now stated a variety of grievances which had occurred in cases of defamation, and more especially in those of fornication, in the Ecclesiastical Courts. Of the lower classes of people many had been thrown into prison by those arbitrary and remorseless Ecclesiastical Courts, for what they chose to represent as a contempt of their authority. Some were compelled to do penance for acts of fornication committed long previous to their marriage. An accusation had been advanced against a woman, because her first child born in wedlock was brought forth before the expiration of nine months, whereby the woman became branded with infamy, although she had been a lawful wife for several years. In one case, where a man was sued for committing fornication with his wife before marriage, it appeared, that seven years after her death he was cited to stand as a prisoner at their bar, though he had lived with her for nine years, and was father of seven children. A poor woman who was pregnant, and very near childbirth, was cited to this court: being at some distance and in such a situation, she could not appear in time to the citation; the consequence was, she was excommunicated, and thus deprived of all those temporal advantages which being within the pale of the church affords. But this was not all, her soul was sentenced to eternal misery. Such examples were disgraceful in their pretences, and terrible in their execution. Was it not necessary, therefore, to devise some method of destroying this minotaur of the sex—this tribunal of oppression on the poor, who had no power of appeal or protection from its severity of infliction? The Ecclesiastical Courts were rapacious to an extreme. If a poor person was tried in the inferior courts and convicted, then he could only have recourse by appeal to the court of arches, which was so very expensive that he could not bear it, and consequently became obliged to lie under all the infamy to which, from the sentence passed on him, he was necessarily subjected. The case of unfortunate women was also most deplorable. They were subjected to penances which destroyed every principle of shame, and eventually fitted them for being received into a bawdy-house. Mr. Bastard read some extracts from a speech made, he observed, by one of the patriarchs of the church (a right reverend prelate in the upper House of Parliament) in opposition to the principles of the measure which had been

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proposed on this subject. Having commented upon the false positions which it contained, and premised, that if the civil courts of judicature did not perpetually throw open ample means of redress and punishment for defamation, means more constitutional, and of course more eligible than those offered by this ecclesiastical inquisition, he might perhaps remain silent. He reprobated the sentence of excommunication, and said, that it was contrary to the gentle spirit of Christianity, and a remnant of that superstition which, fortunately, no longer prevailed in this country. He then moved, That leave be given to bring in a Bill to prevent frivolous and vexatious suits in Ecclesiastical Courts.

Mr. *Holdsworth* seconded the motion. He remarked that in cases of antinuptial fornication their procedure had been singularly vexatious; and that a gentleman sat near him, who had suggested to him an example, in which a person had been teized with a process on account of antinuptial fornication fifteen years after he was married. He added, that the various instances of oppression in the conduct of this arbitrary, this infernal court, ought to operate effectually with the Legislature as motives for its abolition.

Sir *William Lemon* observed, that the hon. mover merited high encomiums for the zeal which he had manifested against such vexatious procedures; and added, that in consequence of such virtuous activity and ardour, he had obtained the thanks of the grand jury of the county which he represented, who had also expressed their earnest wish that he would again propose a measure which had at a preceding juncture failed of success.

Sir *William Dolben* thanked the hon. gentleman for making his motion. He wished, however, to remind him, that there was nothing more singularly vexatious in the Ecclesiastical Courts than in any of the other courts in which justice was dispensed—that the poor, if injured by the decision of the judges in Westminster-hall, were as little able to apply to the House of Peers for redress as to the Court of Arches, in instances of defamation. The original institution of the Ecclesiastical Courts was wise and good: the abuses which had crept in, could not be too soon rectified; but even their present existence did not warrant the application of the epithet 'infernal' to this violently reprobated tribunal. The patriarchs had been perhaps contemptuously mentioned; but he felt a pleasure in declaring, that he believed there never was a period in which the different sees in this kingdom were filled by men of greater learning, or who recommended religion more powerfully by their own example.

Mr. *Burke* said, that if there were any abuses in the Ecclesiastical Courts, the fault was not to be attributed to the bishops; for every one knew that they rarely presided there, and generally did their business by deputation.

Mr. *Bastard* declared, that he meant no reflection on either the bishops or the clergy, of whose worth he entertained as high an idea as the hon. baronet; he had opened the subject solely with the most anxious hope of proving the humble instrument of exterminating an evil highly oppressive to the lower class of the community, and absurdly arbitrary in itself.

The motion was then agreed to.

Debate in the Commons on the Plan for the Consolidation of the Duties of Custom and Excise.] Feb. 26. The order of the day being read for the House to resolve itself into a committee of the whole House, to take into consideration so much of his Majesty's Speech to both Houses, on the 23d of January last, as relates to simplifying the public accounts in the various branches of the revenue; Mr. Pitt moved, "That the resolutions which, upon this day se'nnight, were reported from the committee of the whole House, to whom it was referred to consider so much of his Majesty's Speech to both Houses upon the 23d of January last, as relates to the Treaty of Navigation and Commerce between his Majesty and the Most Christian King, and were then agreed to by the House—Also that the thirteenth Report of the commissioners appointed to examine, take, and state the public accounts of the kingdom, which was presented to the House upon the 21st day of March, 1785, be referred to the said committee:—And that it be an instruction to the said committee, that they do consider of the several acts of parliament for establishing annuities on lives, payable at the receipt of his Majesty's exchequer." The Speaker then left the chair, and Mr. Steele took his seat at the table.

Mr. *Pitt* rising again, observed, that it would be unnecessary for him to dwell upon the great importance of the subject, and the advantages which must inevitably result from it; they were in themselves so

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obvious, that it was more difficult to account for its having been delayed so long, than to prove the propriety of now adopting it. The increasing commerce of the country on one hand, and the accumulated burthens on the other; the various additions which it had been found necessary to make to the national income, by augmenting almost every subsisting duty, and the concomitant progression of the resources from whence that income was supplied, had so widely exceeded the expectations of our ancestors and all the grounds of calculation, on which they founded their system of finance, that the principles which they adopted, as suited to the narrow and confined scale of their public exigency and resources, were no longer applicable to the present state either of the trade or the revenue of the country. The consequences of thus retaining the old principles under the altered circumstances of the country, were, in several points of view, highly detrimental to the interests of the nation. In the first and most material instance, they were productive of great inconvenience to individuals, as well to the merchants as to the officers of the customs, from the difficulty they occasioned in calculating and ascertaining the amount of the several sums to be paid by the former; and they were also, in some degree attended with an actual loss to the revenue. Mr. Pitt went very much at length into the origin and progress of our revenue, as it at present stands, and particularly that branch which arises from the customs, stating, that the first institution of the present subsisting duties of custom, was made by statute the 12th of Charles 2, under the names of tonnage and poundage—the first of those was an imposition on wines, laid on by the quantities imported; and the other was a proportional duty calculated by value on all other articles. This last duty of poundage, calculated on the value of the several articles, was of a nature liable to great inaccuracy and irregularity—the value of the goods was ascertained by a book of rates, and computed on the quantities of the goods either with respect to gage, to weight, or to *taille*—it was not a real value that was fixed upon them, so that the duty should bear a certain proportion to that real value, but an arbitrary value, perhaps according to their actual standard at the time of imposing the duty, yet which must, from the natural fluctuations of trade and manufactures, be necessarily liable to many changes and alterations. The consequence of such a mode of taxation when it was laid on by bulk, was, that in goods of one general description the duty was always the same, whether upon the more perfect or the coarser manufacture, by which means it either operated as a prohibition to the latter, or was not at all felt by the former. There was, besides, another mode by which duties were imposed; which was, by a proportion to the value on goods not rated, and this was the real and actual value of the goods, as sworn to by the importer. This principle of taxation, being once adopted, was pursued in every fresh subsidy which had been granted for the payment of the interest of the several loans that were raised from time to time. In some instances it had operated by imposing additional duties, calculated by a per-centage on the duty at present paid; in others it had laid a farther duty on a different denomination of the commodity, either with respect to its value, its bulk, its weight, or its number; and proceeding in this manner from period to period, it had at length, by the numerous additions so made, and the unbounded increase of the articles of commerce, produced that mass of confusion, which was now so universally complained of, as productive of such an infinity of inconvenience and delay to those whom it was the interett of the country to have as free from all unnecessary embarrassments as possible—the mercantile part of the nation.

Adverting next to the nature and extent of those inconveniences which hence arose to the merchants, Mr. Pitt represented to the committee, that almost all of the additional subsidies had been appropriated to some specific fund, for the payment of certain specific annuities, and that there must therefore be a separate calculation made at the Custom-house for each of the different subsidies; and that from the great complexity of the whole system, scarcely any one merchant could be acquainted, by any calculations of his own, with the exact amount of what he was to pay. It was, at first view, perhaps to be wondered at, that consequences seriously bad, had not as yet resulted from this evil; but there were two causes by which that circumstance might be accounted for. The first was, that some persons employed in the Custom-house, whose whole time being dedicated to the business, were more conversant with it

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than any merchant could be supposed to be—had, for the ease and convenience of the traders and merchants, arranged a general view of the Customs, in the form of a book of rates, which was, to a certain degree, found to be useful; but the utility arising from such a compilation, could not be of any very long standing, when it was considered that there was, every session of parliament, some alteration or another made in several of the duties, and each of those alterations following the old principle, totally unhinged and overturned the use of every preceding printed calculation. But even if this disadvantage did not attend the Custom-house officers book of rates, it yet only tended to relieve, in a very inconsiderable degree, the grievance complained of; for although the calculations contained in the book might have been ever so accurate, yet the merchant could not go to the Custom-house and enter his goods immediately, by paying down the sum stated in the book of rates, but must wait, as if such book never existed, until all the usual calculations on each subsidy had been made, the several acts by which such subsidies had been granted having so directed; and thus, in point of time, nothing was saved by the merchant. The other cause, by which the inconvenience was in a degree obviated, was one to which, for many very good reasons, as speedy a stop as possible should be put. The officers of the Customs, having, from constant practice and experience, acquired a greater facility in making the necessary calculations than the merchant could be supposed to have done, were the only persons to whom the merchant could apply for assistance and direction. Thus, the merchant was not only in a great degree left at the mercy of the officers, but the officers themselves, who were intended to be a check upon the merchants, were forced to become their agents—a procedure repugnant to every principle of reason and policy. Those abuses which he had stated to exist in the Customs, obtained also, though not to the same extent, in the Excise, and, in a certain degree, in one other great branch of revenue, the Stamps. He should therefore include them in his general plan.

The mode by which he proposed to remedy this great abuse was, by abolishing all the duties which now subsisted in this confused and complex manner, and to substitute in their stead, one single duty on each article, amounting as nearly as possible to the aggregate of all the various subsidies already paid; only in general where a fraction was found in any of the sums, to change the fraction for the nearest integral number, usually taking the higher, rather than the lower. There could, he said, be no great objection to this very trifling rise in the amount of the duties, as either such rise, or an equivalent diminution must take place, or the confusion consequent on fractions still continue. This advance from the fractions to the integral would produce an increase in the revenue to the amount of about 20,000*l.* per annum, and would lay upon the public a burthen most amply compensated by the great relief which the merchant would experience from the whole of the plan. Still there would be some diminution of revenue in certain branches of it, where it might be found expedient to substitute the lower instead of the higher integral number in place of the fraction. He here enlarged on the advantages of the plan, as well with regard to the convenience which the merchant and officers of the Custom-house would experience, as the benefit which must result to the revenue by freeing it from the clogs nnd fetters with which it was loaded, and instead of the obscurity which it now laboured under, rendering it so clear and distinct, that no mistake or error could possibly take place in any future inquiries which might be had upon the subject. In some few articles it was his intention to introduce regulations of much greater extent than what he had stated, particularly in certain species of timber, which he would explain more at length to the committee when he came to the resolution on that head. And in respect to the duty on drugs he should propose to make a very considerable reduction, as the duties on those articles were so high as almost to drive the fair trader out of the market, and throw the whole into the hands of the smuggler. On such goods as were not to be rated, in consequence of this new system, it was his intention to propose certain duties proportioned to the sworn value of the articles, which duties, in general, would not exceed the sum of 27½ per cent.

It might now be proper to observe in what degree the consolidation of the duties might affect the security of the public creditor. As many of the subsidies which it was proposed to abolish were particularly appropriated to the pay-

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ment of certain specified annuitants, and as some of the annuitants were entitled to a valuable priority of payment, it was doubted whether such right of priority might not be infringed upon by abolishing those funds from which such prior payments were to issue, and consolidating them all into one general mass. But, this valuable priority it was by no means his intention to affect, as the plan which he should adopt would leave it at the option of all persons enjoying such right of priority to continue in possession of it, or relinquish it, as they might think proper. This priority of payment arose from the terms of the several loans by which certain funds were raised for the payment of the interest of such loans, and the surplusses of those funds to go to the aggregate fund, out of which aggregate fund other annuities were to be paid. The right of priority might as well be maintained by paying them all out of one general fund, as by paying first one set of annuitants out of several funds, and the remaining annuitants out of the surplusses of those funds, provided that, out of that general fund, the first payments were actually made to those annuitants entitled to that priority. No injury could possibly arise to the public credit by such an arrangement; and no real benefit resulted to those who enjoyed the right of prior payment, the resources of the country being equally bound for the payment of the whole; and the payments already made to the annuitants were not paid out of the respective funds appropriated to the different annuities; but the whole of that business was, at this moment, conducted at the bank, nearly in the same manner as it would be, when the whole of the revenue was to be consolidated into one general fund. The State, he apprehended, had a right, consistent with its good faith to its creditors, to make such alterations in the nature of its securities as it should see to be convenient and necessary, provided that on every such alteration it took care to substitute such a security as should be substantially equivalent to that which was so changed; and he challenged the attention of the committee to a most particular observance of every part of the plan that was in any way connected with the public faith, in order that it might be most religiously adhered to: but to dispute this right of the Legislature, to modify the security which it afforded to the public creditors, would, if carried to its full extent, absolutely preclude the possibility of ever making any alteration in any tax which might be once adopted. There could not, however, he flattered himself, be any ground of objection, on the head of public faith, to the system which he meant to propose; for, he should recommend, that not only all the several funds then consolidated should become chargeable with the public debt, but that every other resource of the country of any description whatsoever, should be a collateral security for the payment of those debts—even the aids of the current year. Yet, notwithstanding his opinion of this right of the Legislature to modify its own securities, he was still of opinion, that it ought not to be done, if it could possibly be avoided, without the consent of the several creditors, which it had been the constant practice of Parliament to take, whenever it proceeded upon any such measure. This consent was to be taken by allowing a proper time for the public creditors to make their objections; and, if in that time none were made, to construe their silence into acquiescence. This mode he was desirous to adopt in the present instance. On the subject of the funds, he contended, that none of them could possibly be affected in any disadvantageous manner by the new modification.

Having thus, he hoped, clearly demonstrated the eligibility of this plan, as well from the advantages likely to result from it to trade and revenue, as from its being completely free from any objection in respect to public credit; having, he trusted, made it perfectly intelligible to every gentleman, he should proceed to explain how he proposed to carry it into execution. He was persuaded, that every gentleman who approved of the plan, would feel a desire to co-operate with him as strenuously as possible to carry it into effect, and in so very complicated and detailed a subject would be willing to dispense with as much form as possible towards its speedy completion. He should not, therefore, enter at present into the detail of all the several resolutions by which the plan was to be supported, but should satisfy himself with having them all understood as having been read *pro formâ*; proposing, however, on such of them as were of most consequence, and likely to be attended with the greatest variety of opinion, to trouble the House with his sentiments more at large, and pledging himself that he would not suffer any resolution of the whole volume (for

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they amounted to nearly three thousand in number) which appeared to him of considerable importance to pass, without calling the attention of the committee particularly to it—that a subject of such importance might have the most ample discussion in all its essential points. He had given no ordinary share of attention to this business—he had not left one unconsulted from whom any information could be obtained—the plan had been referred to the Board of Revenue, and had received their perfect approbation—the greatest diligence had been used to circulate it among the most diligent and respectable of those persons who were most immediately concerned in its operation—the trading interest; and he was happy to say, that it was received by them all with the highest satisfaction, and he flattered himself that he came forward on the subject, supported by the best of all possible authorities, the information of the most enlightened persons on all parts of the business, and the universal consent of those who were most interested in the event. But as it was a question of such great importance, and ran into so very extensive a detail, he recommended it to gentlemen to pay it their most serious attention in all its branches, that the good intentions of those who were instrumental in framing it might not be in any instance frustrated by those mistakes, inaccuracies, or even clerical errors, to which so very complicated a subject must necessarily be liable. He should content himself for the present with barely moving a general preliminary resolution, by which the committee would go no farther than the adoption of the main principle, and the discussion of the more minute questions which must arise upon it, would be left open to their future judgment; and as many of those questions would require a very ample consideration, he should not wish to proceed farther in the committee until the ensuing Thursday. He concluded by moving a resolution to the following purport:—"That all duties of Customs, Excise, and certain duties of Stamps, do cease and determine, and that other duties be substituted in their stead."—In the motion were included certain specific exceptions, as the duties on malt, mum, cyder, perry, &c.

Mr. *Burke* said, that upon the whole, the measure proposed, was, in itself so obviously necessary, beneficial, and desirable, and the right hon. gentleman had opened it with such extraordinary clearness and perspicuity, that he thought it did not become him, or those who, like him, unfortunately felt it to be their duty frequently to oppose the measures of Government, to content themselves with a sullen acquiescence; but it behoved them to rise up manfully, and doing justice to the right hon. gentleman's merit, to return him thanks on behalf of themselves and the country, for having in so masterly and intelligible a manner brought forth a plan of consolidation of duties which promised ease and accommodation to the merchants, and all those concerned in the trade and commerce of the country, and advantage and increase of the revenue.

Sir *Grey Cooper* declared, that he had not the least objection to the plan. He added that this scheme had made some considerable progress, during the time in which a noble lord had presided in the Treasury; that in the years 1780 and 1781 he had, by order of the noble lord, often seen, and indeed carried on, a correspondence on this subject, with a very intelligent commissioner of the customs, who now, much to his own honour and to the advantage of the public, served his country in another important office. The noble lord had it much at heart to bring this plan to the maturity at which it had now arrived, and the right hon. gentleman had stated and explained the whole proposition, and all its parts, with so much perspicuity, and thrown a matter of great complexity into so clear an arrangement, that, as far as he at present understood it, the plan commanded his entire approbation. He had always conceived, that the chief difficulty in carrying this plan into execution, was the necessity of changing and altering the appropriation of the duties specifically destined by acts of parliament, for the security of the creditors of the state at different periods, particularly the public creditors, who, by the Acts of the 1st and 3rd of George 1, anterior to the establishment of the sinking fund, had a valuable priority and preference in the payment of the interest of those debts, which were declared to be national debts before the year 1716.—Sir Grey admitted that it was competent to that House, to vary the security given to the public creditors, in the case stated by the right hon. gentleman, of a duty repealed, and substituting another in its place, with the counter security of the sinking fund; but that being now gone,

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by the substitution of one general fund, in place of the aggregate fund, and the surplusses, no variation or shifting of the appropriation of security could be made consistently with the extreme delicacy with which public faith to creditors ought to be preserved, without the consent of those who were to be affected by any arrangement, however advantageous to the public. The right hon. gentleman seemed to be perfectly aware of this, and not to intend the least deviation from these principles; and he understood that provision was to be made in the Bill, for such notifications as should prevent any creditor from losing the preference which he now possessed, if within a limited time he signified his dissent to the plan.

Mr. *Samuel Thornton* corroborated that part of Mr. Pitt's speech, in which he stated the great inconveniencies under which merchants laboured at present, from the perplexed state of the duties and customs which had so long prevailed. He gave his full assent to the plan proposed, and declared that he had conversed with several intelligent officers of the customs, and many respectable merchants upon it; all of whom agreed, that it would be a most essential accommodation to the business of shipping, entering, and landing of goods.

Mr. *Fox* believed that he thought exactly with the right hon. gentleman, who had so clearly and perspicuously opened the plan to the House; and that the objection which he had entertained, had been totally done away in the latter part of the right hon. gentleman's speech. What he meant was this: did the right hon. gentleman say, that due notification would be given to every public creditor, and that all such as were afraid, and did not approve of taking the new security of the general fund, with the collateral security of the aids of the year, would have the option of the appropriated fund which the right hon. gentleman had described? If this were so, he certainly had no objection, because he had ever contended, that the security given to the public creditor, when he lent his money, ought not to be changed without the consent of such public creditor. As the resolutions upon the Commercial Treaty with France were to be blended and joined to the resolutions for the consolidation of the customs, he hoped, that when the right hon. gentleman came to those resolutions which related to the Commercial Treaty, he would afford the committee an opportunity of considering each of those resolutions distinctly.

Mr. *Pitt* begged leave to assure the right hon. gentleman that he had correctly understood him: he certainly meant that there should be a full time allowed for notification to every public creditor of the intended change of the security, and that each creditor should have his option, either of accepting the new security of the general fund, with the collateral security of the aids of the year, which was undoubtedly a better security than he had at present, or of taking the other security of an equivalent. He could not admit the argument of the right hon. gentleman to the full extent, that the House had no right to change the security of the public creditor; because, if it were laid down that the House had in no case, where its own convenience and advantage clearly suggested it, and where it could be done without any sort of danger to the public creditor, a right to change the security, a tax found upon trial to be either inexpedient, unequal, or unproductive, could not be repealed, and a new tax substituted in lieu of it; which would, undoubtedly, be a circumstance inconvenient in the extreme. With regard to the resolutions upon the treaty of commerce with France, they were necessarily and unavoidably implicated and connected with the resolutions relative to the consolidation of the duties on customs, and unless considered at the same time, it would be impossible for us to keep the stipulations of the Treaty.

The resolution was agreed to; after which the chairman was directed to report progress, and ask leave to sit again.

Debate in the Commons on the Repeal of the East India Judicature Bill.] Feb. 27. The House went into a committee on the Bengal petitions, for the repeal of this Bill. After the counsel had retired from the bar,

Mr. *Dempster* said, that on the next open day he should move for leave to bring in a bill to repeal the East India Judicature Bill, agreeably to the prayer of the petitions.

Mr. *Pitt* observed, that there was sufficient time for the hon. gentleman to make his motion, and that instead of waiting for an open day, he ought to avail himself of the present day, which was kept open merely to accommodate him, though other very important business had

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been necessarily postponed for that purpose. It was absurd, after having had the benefit of counsel, for the committee to adjourn immediately, as it were in order to forget the arguments of the counsel, before they should come to a vote upon the subject.

Mr. *Dempster* answered, that his reason for deferring his motion was the thinness of the House.

Mr. *Pitt* contended, that it was rather a singularly odd occasion for calling counsel to the bar; but it was still more extraordinary to break up without proceeding any farther.

Mr. *Sheridan* said, that the House was too thin to make a motion of such great national importance; but if gentlemen did not mean to object to a motion for leave to bring in a bill to repeal the Acts prayed against, he presumed that his hon. friend would have no objection to make the motion at the present juncture. It was, in his judgment, a motion of great magnitude, and required mature deliberation. Many gentlemen had not had the opportunity of hearing the arguments of counsel, and therefore they ought to be afforded an opportunity of learning the nature of those arguments.

Mr. *Dundas* observed, that, although the counsel had, with great ability, done ample justice to their clients, they nevertheless could not be said to have advanced any arguments that had not been urged again and again.

Mr. *Dempster* declared, that many gentlemen had gone away under the idea that no motion would be made. He then moved, "That the chairman report progress, and ask leave to sit again."

Mr. *Pitt* objected, and moved, by way of amendment, "That the chairman do leave the chair."

Mr. *Burke* contended, that a great deal of argument might still be adduced in favour of the original motion. It gave him great concern to find that British subjects in India were not to be permitted to enjoy the same privileges which British subjects in England enjoyed. If they were to be deprived of their freedom, if English mouths and English pens were not to be allowed to be exercised in favour of oppressed natives, those natives must lose their freedom entirely, and no complaint against persons in office could ever be preferred with effect, so as to reach the knowledge, and challenge the inquiry of the Parliament of Great Britain, because the acts petitioned against put it in the power of the Governor-general to seize and imprison every British subject who should presume particularly to state the variety of oppressions under which a native might unfortunately languish.

Major *Scott* begged leave to assure the right hon. gentleman, that he wished as earnestly as any man that the Bill might undergo a reconsideration: but, with respect to its having any operation as to the natives, it certainly would not. They would not complain to Great Britain, and all that was necessary for their relief at all times, was a strong efficient government upon the spot, composed of men of honour and integrity, and well supported from this country. As to the government of Bengal, it had ever been, and it ever must be, despotic. We had succeeded a despotic government, the Mahometan; but he spoke from full conviction, and from the best information from gentlemen who had been in parts of Hindostan which he had never seen, when he asserted, that of all the governments in Hindostan, the government of Bengal, under the English, was the best, for the happiness of the natives, the security of private property, and for the lenity with which the people were treated. Let the right hon. gentleman inquire from those who had seen the Hindoo and Mahometan governments, either Madajee Scindia's, which was a very considerable government, or any other he pleased, and he would find that the government of Bengal was more populous, the country better cultivated, and the natives more secure than they were under any other, or than they had been under any of the Mahometan rulers, from its first invasion.

Mr. *Burke* maintained, that the worst that could be said of any government was, that it was despotic. If the British government established in India was despotic, so far from its being the best possible government for the country, all circumstances considered, it must be the worst, because of the infinite distance of India from the seat of supreme authority. If Englishmen in India were deprived of their rights and privileges, a total end was put to freedom in India, since an Englishman who suffered his liberties to be taken from him without cause, and without resistance on his part, was an Englishman depraved, fit and ready not only to enslave himself, but to enslave others. It was natural, he obeserved, for men in power

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to feel an inclination to exercise that power tyrannically, and even to the enslaving of those subordinate to their authority; but it was the province of freemen to detect them; and when the freedom of Englishmen in India was taken from them, those in power there might with impunity carry into execution against the miserable natives whatever plans of slavery their abitrary and unfeeling dispositions might suggest.

The amendment was agreed to.

Debate in the Commons on the Clause in the Mutiny Bill, subjecting Brevet Officers to Martial Law.] Feb. 28. The House being in a Committee on the Mutiny Bill,

Colonel *Fitzpatrick* complained of the alteration made in a clause of the Mutiny Act which passed last year, and was sorry to find it continued in the present Bill. The preamble to this Act, as judiciously penned by our forefathers, declares a standing army to be contrary to the law of the land, and wisely enacts, that no forces shall be paid and mustered in this kingdom but those provided for by this law. No innnovation should be made in its principle, or alteration in the language of any of its clauses, without good cause. For this reason, he rose to propose an amendment which would in fact restore it to the state it stood in for many years. The two reasons assigned for the late alteration must be in the recollection of every gentleman: they were the cases of generals Stuart and Ross. The former gentleman held the local rank of major-general by brevet in the East Indies, besides his commission from the Company: the latter also was a major-general in the army by brevet. On complaint being made by general Boyd of the conduct of the latter gentleman, and a court-martial being summoned, they doubted their authority to try the complaint, and propounded a question to the judges, who declared, that brevet officers did not come within the meaning of the Mutiny Act. On this opinion, the alteration was made last session, wherein every officer in the army bearing the King's commission is subject to martial law. In a constitutional view this was truly alarming. That learned judge Blackstone had given his opinion in clear and explicit terms, on the dangerous tendency of extending martial law. How alarming was it therefore to pass a bill, placing we know not how many of our fellow-subjects, out of the pale of the juridical law of the land, and arming them we know not for what purpose, and these men not provided for by any vote of this House. It was not the present danger of their numbers he was afraid of, but the precedent, and the use which might be made of it. Of this opinion was the late earl of Chatham.—He then entered into a disquisition of its effects in the army, and drew some comparisons between the half-pay officer and the commission by brevet. It was supposed by some persons that half-pay was a reward to the officer for his past services; others concluded that it was a retainer only for the future, as he was liable to be called on at pleasure: but there was a wide distinction between officers whose corps were reduced, and of course their commissions determined, and brevet officers whose commissions remained. It is true, (he added) they cannot properly act without a letter of service; but as the former are not deemed within the meaning of the Mutiny Act, no more should the latter, until called into actual service. No man should therefore be looked upon as a military man, unless he is provided for by this House; as the spirit of the Mutiny Act is, that no man shall be liable to martial law but those who are mustered and in the pay of the nation, which is not the case of brevet officers. There is also another description of military men—the officers of the militia. They are very properly subject to martial law when called out; but if they were required to be under it at all times, they would reject the proposition with indignation. The colonel reverted to the cases of generals Stuart and Ross, who were not amenable to a court-martial under the Mutiny Act, because they were not known by it as military men in this country; but his Majesty, by virtue of his prerogative, could in foreign service cause every officer and soldier to be subject to martial law. With this power in the Crown, where was the necessity of extending the provisions of the Act? In conclusion, he moved, that the words 'commissioned officers' be left out of the clause; and 'mustered, or called into service by proper authority,' be inserted in their room. The reason why he adopted the word mustered, was, that it was an old word, and implied pay, which was an essential requisite to make a man amenable to martial law.

Sir *Charles Gould* (Judge-Advocate General) contended, that he had never heard

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any objection made by military men to the clause now under consideration; on the contrary, he recollected two instances of brevet officers, one of whom is an aid-de-camp to his Majesty, sitting in a juridical capacity on the trial of an officer: they were gentlemen in much esteem for their knowledge and high sense of honour, and he was certain that they would not have taken a function upon them, unless they were satisfied that they were entitled to it. Another much respected officer, some years ago, resigned all his military employments, but retained his commission by brevet as lieutenant-colonel, merely that he might be liable to the authority of courts-martial for any act done by him whilst in command. He mentioned the case of general Ross, who was supposed to have written disrespectful letters to general Boyd, and the opinion of the court-martial summoned to try him, as also the opinion of the judges thereon: he also noticed general Stuart's case, who on the death of sir Eyre Coote succeeded to the command of the King's forces in India by virtue of his rank in the army by brevet: the general likewise had a commission from the Company, and of course commanded all the forces. Was it, therefore, proper that an officer vested with such high command should not be amenable to the laws established for the regulation of the whole army? With respect to the observation that if you include brevet officers, you should also include half-pay officers in the Mutiny Act; the opinion of the Legislature was perfectly clear, that the latter were not within the meaning of the statute. He then put several cases, wherein a brevet officer would be justified in taking upon him a command without a letter of service; and that the officer in actual rank, but inferior to the nominal one, would be justified in submitting to such command. The cases were supposed to be those of extreme necessity; such as an invasion, rebellion, &c. and where the officer was young in service. But even in these cases, if the brevet officer committed mal-practices in in that command, he should certainly be liable to the jurisdiction of the courts-martial: this he thought absolutely necessary, and he believed that it was the opinion of the army in general. The King had the power to add to and regulate the articles of war as he thought proper, provided no new offence was made capital; and every person in the army was subject to these articles, and liable to be punished by them: they extended to all officers. Therefore, as the question submitted to the judges related only to the construction of a clause in the Mutiny Act, the articles of war were not before them. He argued against the absurdity of compelling an inferior to be subject to regulations to which his immediate commander was not liable, and whom, by the laws of the army, the inferior must obey. He acknowledged the King's prerogative to hold courts-martial abroad, and instanced that part of the articles of war, whereby an officer acting in a scandalous and ungentleman-like manner was liable to be dismissed. His Majesty, it was true, might degrade him from his rank; but was it not better to be left to the decision of a court-martial? He was therefore against the amendment.

Mr. *Francis* said, that the great intent of the Mutiny Act was, to prevent the Crown from having one man more in the army than was voted by the Commons, and that all the former Acts declared they must be mustered, or in pay; but by taking out 'muster' and inserting 'commission,' there might be an army in the kingdom unknown to this House. It might appear of trifling consideration; but little things, when once admitted, might become great. He was therefore of opinion that the amendment should be adopted, in order that the spirit and intent of the Act might be preserved.

The *Secretary at War* remarked, that as no one instance of any bad effect arising from the clause could be adduced, he held that circumstance to be the strongest conviction of its propriety. He said, that there were many cases in which it was not only proper, but the absolute duty of a senior officer by brevet, to take upon him the command; for instance, were an insurrection to arise in a garrison town where a young officer commanded, would not he be happy to resign his command to the experience of an old officer? And would any call in question that officer's being liable to the jurisdiction of a military inquiry? He had lately conversed with a gentleman of high military rank, who had declared that until the court-martial on general Ross started them, he had never entertained the smallest doubts upon the subject: it was therefore no new matter; it was only confirming an old established opinion.

Mr. *Fox* observed, that nothing could

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be more ridiculous than the assertion that a brevet officer might take a command without a letter of service. Suppose that an officer by some means, either chance or design, found himself in India, and in possession of a brevet commission in point of date or rank superior or prior to that of earl Cornwallis; and on producing that commission, let us suppose the noble earl obliged to resign his command to that officer; would the Judge Advocate take upon him to say, that the noble earl would not, by this doctrine, be justified in giving up his command to which he was specially appointed by his Majesty? The idea was monstrous and absurd! The King's commission, by these means, would be trod upon, and the wisdom of his councils rendered of no effect. It will be urged then (continued Mr. Fox) that such a man should be tried by military law; I say, No. It is the officer who surrenders his command that ought to be thus tried; let the other come under the laws of his country. The words of the clause signify —what we all agree in—that military men should be amenable to military law: but let us not include more under that denomination than there is really a necessity for. There can be no necessity for brevet officers to be thus considered as men out of the protection of the juridical laws of their country; it must be the wish of every Englishman to be protected by them in all instances; and until a necessity takes place of his being under martial law, he ought not to be made amenable to it. The consideration of the half-pay officers being bound by the Mutiny Act is a serious matter, and ought not to be hastily mentioned.

Sir *Charles Gould* answered, that lord Amherst, whilst in America, had a special commission, and could not be superseded; and every governor, and even lieutenant-governor, had appointments which rank could not affect.

Mr. *Jolliffe* rose to trouble the committee on this question, not in a military light, but merely as it might affect the subjects of this country in their civil situations. It had ever been his principle to resist, so far as was in his power, any attempt to put any description of men under a military trial, who were not so by the military law, as it now stood. With respect to brevet officers assuming military authority, he had no doubt that they should be subject to military law, and the clause moved by the right hon. gentleman went completely to that; and on that ground it had been uniformly argued by the other side, except by the Judge Advocate. But were that the case for which this alteration in the law was attempted, the direct contrary would become avowed. The case however was this: general Ross had written some letter, or published some paper, supposed to be defamatory, against general Boyd, under whom he had served at Gibraltar, and on application to the judges they were of opinion, that for this supposed offence he could not be tried by a court-martial. But did any man suppose that this offence might not have been tried by a jury? there was no doubt of it: then this alteration was proposed to render that to be a crime triable by a military tribunal which was merely a civil offence, because not committed under the command of a general, but after his command had ceased. It had been said by the judge-advocate, "But there may be offences with which officers may be charged, which are not triable by a jury, and for which such officers may be driven from the society of their corps, unless they should on investigation be fully acquitted thereof." He defied the learned gentleman to show him any one offence which a brevet officer could commit in his civil capacity, which was not triable at common law. He was sure that no such case, with respect to a brevet officer, could exist: this alteration therefore went to constitute an infringement on the trial by jury; it took a description of persons out of that mode of trial and placed them under a military tribunal; it was therefore a material alteration of the law of the land; and being in no respect whatever necessary, he should certainly object to it.

Captain *Phipps* said, that the great duke of Cumberland acted in Scotland by brevet, and served without pay; and that it was Mr. Fox's intention, if his administration had continued longer, to have a commander in chief (general Conway) without pay in this kingdom.

Sir *George Howard* declared, that he never heard it asserted that military men should not be under military discipline: he never looked on half-pay as a reward; but always considered the officers' commissions to lie dormant, and not to be annihilated. When officers thus situated are called into service, they must have a new commission, but that one placed them in their old rank. He mentioned, that in 1745 an invasion was apprehended by the

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citizens of Bristol; and the duke of Cumberland was requested to send officers to command the troops and embodied citizens there; but his highness did not send officers of rank, and only nominated four half-pay officers to the service.

Sir *James Erskine* said, that, as the words originally stood, they at least involved a doubt in respect to the half-pay officer; by the amendment, all doubt was done away, as, if it was determined hereafter that officers acting by brevet were serving under proper authority, as worded in the amendment, it must of course meet all their ideas.

Colonel *Fitzpatrick* instanced the case of lord Rawdon, when on a separate command at Charlestown. He there found a brevet officer, who demanded the command of his troops; but the noble lord refused to sign it, as it was a detached army under earl Cornwallis.

The committee divided on the amendment; Yeas, 25; Noes, 73.

Debate in the Commons on Captain Brodie not being included in the late Promotions to the Flag.] March 5. Sir *M. W. Ridley* hoped that the House would indulge him with their particular attention, whilst he brought them the case of captain David Brodie, an officer of most extraordinary merit, who had been superseded in the late promotions to the flag, on account of his not having served in the last war, an order having been made that no officer so circumstanced should be promoted. Sir Matthew contended, that it had not been owing to any fault or failure of his own that captain Brodie had not served in the war preceding the late promotions, since he had repeatedly offered his services in person, and had also applied by letter. Sir Matthew strongly enforced the claim of captain Brodie. He declared that the captain asked for no emolument, or pecuniary reward; but was anxious only to obtain (what every man of feeling must conceive to be dear to an officer as his life) the rank to which he was entitled by meritorious services, and the denial of which he could not but consider as a degradation and disgrace, implying censure and involving punishment. In conclusion, sir Matthew moved, "That an humble Address be presented to his Majesty, humbly to represent to his Majesty, that David Brodie, esq. a captain in his Majesty's navy, has not been included in the late promotions to the flag, on the ground of his not having served in the war before such promotions took place.—That it appears however to this House, that the said captain Brodie had, both in person and by letter, applied to the Board of Admiralty to be employed, but which offers of service were not accepted.—That this House cannot but consider such offers to serve as equivalent to actual service, inasmuch as it is not in the power of any officer to serve but under the appointment of the Lords Commissioners of the Admiralty; and it would be contrary to justice, that an officer should suffer, owing to his not having served, when the power of serving does not depend upon himself.—That it likewise appears to this House, that the said captain Brodie had, during the time he was employed, distinguished himself as an active, zealous, and gallant officer.—That in particular captain Brodie has been sixty years in the royal navy, was one of the admiral's lieutenants at the taking of Porto Bello; bombarding Carthagena; taking of Chagré; taking of Boccachica, and in most of the actions that happened in the West Indies during that war with the combined arms of France and Spain. That captain Brodie was promoted to the command of the Merlin, a sloop of 10 guns, and 110 men, in the West Indies, and rendered the following services to his country: 1st. He sustained an attack from a 50 gun ship a considerable time, in which he lost many men.—Two other ships coming in sight, the enemy left him —They afterwards proved to be two of our own. 2nd. He took the Union, a French privateer of superior force. 3rd. He took the Vainqueur, a French privateer of superior force. 4th. He took the Bacchus, a French privateer of superior force. 5th. He took the St. Antonio, a Spanish privateer. 6th. He took the Petit Guava, a French privateer of equal force. 7th. He took the Ferdinand, a French privateer of superior force, which he boarded.—She had 42 men killed and wounded. 8th. He attacked two Spanish xebecks, that had taken the Blast and Achilles, two of our sloops of war; and after a desperate engagement, they were obliged to retire, and never appeared more on those seas.—Captain Brodie derived peculiar satisfaction from this success, as he afterwards found they had been fitted out expressly to take him. 9th. He took two French ships of much superior force; in which action he was wounded in

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the side, and lost his right arm. That, for these services, captain Brodie was honoured with a letter from the then Lords of the Admiralty. Captain Brodie was made a post captain in March 1747, and commanded the Canterbury at the taking of Port Louis, and the attack of St. Jago da Cuba. He commanded the Strafford in the engagement off the Havannah, in the year 1748, in which he took the Conquestadore of 64 guns, the only ship taken in the action.

"That this House is therefore induced humbly to beseech his Majesty, that his Majesty will be graciously pleased to confer some mark of his Majesty's favour on the said David Brodie, esq., this House being convinced that such a measure must be highly conducive to the advantage of his Majesty's navy, by encouraging that zeal and gallantry of which there are so many instances herein contained; whereas so honourable a series of services and sufferings not meeting with regular promotion, may tend to extinguish that spirit of emulation and enterprize which has hitherto animated the British navy, and characterized it in every part of the globe."

Sir *John Miller* observed, that, in seconding the motion, he felt the highest gratification, inasmuch as he had been for many years the neighbour of the worthy veteran, whose case was now under consideration; and who was as much esteemed for his personal virtues in private and retired life, as he had been respected by men of eminence and discernment in the navy, for his services and exertions in the line of his profession. Captain Brodie's memorial (which he held in his hand) crowded into a very narrow compass, services which would have dignified the longest life—services which the country should be proud to acknowledge—services which the House, he thought, would certainly have sent up to the Throne for acknowledgment on the 11th of last May, by a respectable majority. Had the present question come before them at that time, which would have proved the case, but that it appeared to the friends of captain Brodie, who were then present, that it would be more for the honour of Parliament, of the nation, as well as of the meritorious officer himself, to permit a becoming requital to descend upon him graciously and spontaneously. The extent of captain Brodie's services entitled them to notice; sixty years constituted no common length of military service; and suggested to him an observation, that when this gentleman first entered into the naval line, some of our present admirals were not born, two of them he could assert were not. It might be asked, what prevented captain Brodie obtaining from former administrations what he now solicited through the intercession of that House? The reply was,—that it was known to every man in the nation, that Administration, and that Board of Admiralty which had so long disgraced, and which in the end had nearly ruined the country, had been distinguished beyond all others for little mean prejudices, jealousies, factions, partialities, jobs, and acts of injustice, to which the brave and the generous were frequently the victims. And of this captain Brodie experienced the truth in all his applications for justice or redress. Thank Heaven! Sir, added sir John, the Administration of this day has far other features and characteristics. Thank Heaven! Sir, such meannesses no longer preside in our navy. The noble person now at the head of the Admiralty has always been distinguished for firmness and justice; for coolness and intrepidity in war; for a faithful œconomy of public money, and an intense and unceasing application to the duties of his situation in peace. To such an Administration, and to such a Board of Admiralty, may not age and service look up for shelter? Let no man imagine that captain Brodie comes to this House to look for private profit or emolument. No, Sir: fortune, who has hitherto refused him his fondest wish, has put him far beyond the reach of all pecuniary necessity. But captain Brodie comes to this House, for a testimony of his long and faithful services; he comes to us for a reparation of his injuries, and, with his injuries, of the injuries of his whole profession. The additional expense of the nation by this act of justice to captain Brodie, would, I understand, amount to nearly 120*l.* per annum, no very great nor very lasting incumbrance for the remainder of a life now verging to its 78th year, wasted, broken, and shattered by climates and hardships, and wounds and injuries.

Captain *Leveson Gower* having premised that the notice of the intended application had pointed it out as necessary to have a reference to the books of the Admiralty-office, in order to ascertain what had been the proceedings there with respect to captain Brodie, added, that he therefore

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rose not to say any thing against captain Brodie, or in depreciation of his merits, but merely to state a few facts, resulting from the reference which he had mentioned. He then stated, that it appeared that captain Brodie lost his right arm in 1747, and that in 1750, he applied by a memorial to the Board of Admiralty, stating, that from his wounds he was incapable of service, and praying to be recommended to his Majesty for some mark of his royal favour; that in 1753, he presented another memorial to the same purpose with the former, but couched in still stronger terms. That a pension was, accordingly, granted to captain Brodie; that he applied to the Board of Admiralty, offering his services, in 1762; that a peace soon followed, and that captain Brodie had not been promoted, as he was considered as coming within the rule, that no officer who had not served in a war preceding a promotion, could be entitled to be comprehended in such promotion. He begged to remind the House, that the proceedings which he had stated took place during various Boards of Admiralty, and that of course the present board were not at all answerable for what had happened.

Sir *Edward Affleck* said, that he had long known captain Brodie, and been a witness to his conduct in some of the actions in which he was engaged. He rose therefore for the purpose of bearing testimony to the facts stated in his favour, and to declare that a more meritorious officer had never served his Majesty.

Sir *John Jervis* likewise felt it his indispensable duty to do justice to that great man whose case was then under consideration, and to declare that a more gallant officer, a person of more zeal, of more true courage, or of a more enthusiastic spirit of enterprize, never was in his Majesty's service. Captain Brodie's repeated application to be employed during the war with Spain, when she joined France against us, was a sufficient answer to any argument which could be adduced from his having, in his application for a pension, declared himself at that time incapable of service. His active spirit and his professional zeal had induced him to continue in command, immediately after the loss of his arm; and the consequence was that his wounds grew worse, from too much exertion in an unwholesome climate, and he was rendered for three or four years incapable of serving; but when he grew better, he was desirous to return to the exercise of his duties as an officer; and it would, perhaps, have been well for his country, if the Board of Admiralty had accepted his offer in 1762, as he was perfectly acquainted with the navigation of the part of the world to which he wished to go. At a time when party disputes divided the navy, and ran so high as greatly to injure the service, captain B. kept his character not only free from imputation, but his conduct stood conspicuous for its bravery and its merit. A stronger proof of the truth of this assertion need not be given to the House than the following fact: it fell to the share of a most distinguished officer, sitting upon a court-martial of an officer of eminence, to examine captain B., who then commanded the Stafford; and he drew from him, though with great reluctance, an account of the proceedings of the day, on which the conduct of the officer upon his trial had taken place; when, after hearing captain B. out, the respectable commander in question burst forth into an exclamation of applause, declaring, that the oldest officers in the service might be glad to give up the glory of all the actions of their lives, to have acted as captain B. had done that day. Sir John Jervis, upon this fact, grounded an appeal to the generosity and justice of the House, asking whether they could refuse to procure for a gallant officer that rank and those professional honours to which he was justly entitled; for an officer also worn down with age, and smarting still with wounds received in the service of his country, and who had just faculties enow left to feel the injustice done him, and who, unless that injustice was remedied, could not lay his head in the grave in peace.

Captain *Macbride* stated from the navy accounts placed on the table of the House, that there were officers of not so long standing, and men who had by no means signalized themselves like captain Brodie, who had pensions, and had nevertheless not been deprived of their rank, but regularly promoted. He went into argument to prove that the Admiralty Board was conducted in a manner which tended to discourage merit, and, if not altered materially, to entail ruin on the service. He spoke of captain B. as an officer of uncommon merit, and gave his testimony to all which had been said in his favour, declaring that it was but mere justice that he should be restored to his rank.

Mr. *Hopkins* had not a word to offer

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against the merits of captain Brodie; yet he could not but observe, that it was a little extraordinary that the year 1787 should be the year of their first hearing complaint of an injustice stated to have been done to captain Brodie nine years ago.

Mr. *Drake* remarked, that from every thing which he had heard, the worthy officer had so much merit, that he heartily hoped the House would do him justice and vote for the address, as he had not a doubt but the breast of their Sovereign would beat in unison with the sentiments of his faithful Commons.

Mr. *Pitt* declared, that, on so extraordinary a question as the present, he could not but feel some degree of uneasiness in delivering his sentiments, particularly as in so doing he should be under the necessity of endeavouring to counteract those impressions which he was persuaded every gentleman felt, but to which, although in themselves highly laudable, it would prove extremely improper on the present occasion to give way. He was convinced that many gentlemen had supported the motion, not only from motives of humanity to captain Brodie, but also from a most zealous attention to the good of the service; but he apprehended (as was too often the case) that, although with the best intentions possible, yet they might do an essential injury to the interest they wished to support, by the very means which they adopted for that purpose. He was persuaded that the hon. gentleman (sir John Jervis) who spoke so warmly in favour of the claim of captain B., and who was himself one of the greatest ornaments of the service, could have nothing in view which appeared to him repugnant to its welfare. But he was also convinced, that when that hon. gentleman and others came to consider the question in its true light, as an actual invasion of the Royal prerogative, and an assumption by Parliament of the superintendence of naval promotions, they would abate much of that eagerness which they showed in their support of it. Not merely improper, but seriously alarming, indeed, must prove the interference of the House, with the functions of the executive government. If the interference of Parliament on such occasions were in general a thing to be avoided, it was on the present occasion more particularly necessary not to suffer its admission. From the arguments used in support of the motion, and from the words of the motion itself, it was perfectly clear what was intended and wished for by the friends of captain Brodie. They disclaimed all idea of a pecuniary compensation, but still demanded a reparation of the injury sustained by him in being prevented from attaining the rank of admiral, to which from his standing in the service, if nothing else had been to be considered, he would have been so fully entitled. How, then, could any such reparation be made, a pecuniary one being disclaimed, except by a promotion to the very same rank that he complained of his being deprived of, the rank of vice-admiral? What, then, was this but an express interference with the executive government? and that in one of its most sacred branches—the appointment of the military officers, by recommending a particular officer to a specific rank, and even pointing out that rank with peculiar nicety, by describing it as next to sir Edward Hughes.—But it was not only as an interference with the general exercise of that part of the King's prerogative, that the motion was objectionable, but because it went a still greater length, and prescribed to the Crown to create a deviation from a positive rule established by his Majesty in pursuance of the advice of the Board of Admiralty, "That no officer who had not served in the war preceding any naval promotion should be included in that promotion." Did those gentlemen who supported the motion mean to contend that this rule was impolitic, and likely to injure the service? If so, then let them argue it upon that ground; and if they could establish the opinion, let the rule be annulled. But while the rule continues to exist, and while its propriety remained unimpeached, why address the Crown for a partial violation of it? When a rule was once established, he should always approve of that House vigilantly guarding it, and interposing to prevent the executive power from deviating from it. But, for Parliament to address the King to dispense with a fixed rule in a particular instance, and where the result of its so dispensing was to be an appointment to a specific rank in the navy—there were such insurmountable objections to the motion, that he could not avoid giving it his most direct negative. He now went into the circumstances of captain B.'s case, and observed, that although he gave implicit faith to the statement made by the gentlemen who spoke in favour of the motion, yet still as far as it was supported

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by records, it only went to prove that captain B. had applied for the first time in writing to the lords of the Admiralty for a command on the breaking out of the Spanish war, though we had been for several years at war with France, and notwithstanding that he was very willing to believe, that he might in fact have made many personal applications previous to that period; yet, from the very words of his own letter, a contrary inference would very naturally follow. For in it, he said, that "he thus takes the earliest opportunity of offering his services." If any injury had been really suffered by captain B., the time to have sought a remedy would have been that in which the injury was done; but instead of that, he had acquiesced in it during the space of 25 years. It had been contended, by way of obviating this objection to the great length of time which had elapsed, that, although the foundation of the injury had been laid in the act by which he was put upon the superannuated list, yet that the injury itself did not arise until 1778, at which time he would, but for his having been so superannuated, have been included in the promotion of rear-admirals, which was sufficient at once to induce the House to reject any motion of such an extraordinary nature. But what in reality was the injury sustained by captain B.? He had, at his own request, been put on the pension list, and the pension granted him had been as great as had ever been given to any captain of the navy; so that in this instance no injustice had been done to his merits as an officer, which undoubtedly were great and exemplary. What were the reasons which had prevented the Board of Admiralty of that day from employing him, could not at this distance of time, be now fully ascertained; nor did he know that it would be right in Parliament to demand any information upon that head. But he believed, that when it was remembered how active and zealous the noble lord (Anson) who then presided at that Board, had always been in the discharge of his duty, how dear the service was to him, and how dear he was himself to the service, no person would suspect that any other motives but those of a most honourable nature, could have operated with him in the part which he took respecting captain B. As to the present Board of Admiralty, they could have no personal interest whatsoever in the case of captain B.; but they must certainly feel a strong interest in adhering strictly to a rule which it was thought necessary for the prosperity of the navy to establish. Nay, every man who approved of the system of our government, and of the separation between the legislative and executive functions, must feel warmly interested in preserving that separation, and in preventing a union of both in that House, which he affirmed that the present motion had a manifest tendency to effect. As the government now stood, ministers were responsible for the several appointments which they should advise; but if Parliament should take into its own hands the right of making appointments, then the responsibility of ministers would be at an end, and, while they would become deprived of the means of doing good, they would be furnished with an excuse for doing wrong. He confessed that he felt warm on the subject; but it was a warmth which, as far as it applied to captain B., became the warmth of regret at the necessity which he felt of rejecting a motion, to which, if he had nothing to consider but the services and merits of him whom it concerned, he should give his hearty assent: but he was warm in his opposition to a motion which tended to unhinge the system of the constitution; for if a precedent of such a nature were once to be established, there was scarcely an officer who had met with any disappointment in the course of his promotion, who would not avail himself of the precedent, and think himself entitled in that case to apply to Parliament for relief. And there would never be wanting circumstances to attract the compassion of the House, though he confessed there would seldom be found facts so highly deserving of their attention as those which belonged to the case of captain B., were the case of a nature to which the House could with propriety give any attention. If it were to be argued, that the present motion was only for a general address to the Crown to reward great and eminent services, though by-the-by, all the arguments in favour of the motion went to the necessity of particular, specific reward—he could not but think, in that point of view, the motion highly improper; for it had never been the practice of that House to carry up such an address to the Throne, except immediately at the time of the performance of those services, for which the reward was applied for. On the whole, though he most heartily sympathized with the feelings of captain

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B., and acknowledged his merits and services in an equal degree with his warmest supporters, yet his duty, as a member of parliament, would by no means suffer him on the present occasion to give way to either, and therefore he must vote against the motion.

Mr. *Fox* remarked, that he should assent most implicitly to the observations of the right hon. gentleman, were it possible for the question to strike him in any similar point of view; but he could not avoid perceiving, that in order to make out his objection to the motion, he had been obliged rather to argue from what had fallen in the course of the debate than from the motion itself. He agreed that the promotion of military men was vested exclusively in the royal prerogative, and the executive power ought not to be interfered with by that House, unless in cases where they had been guilty of abuse or neglect of duty. If therefore the present address had been an address for the purpose of desiring his Majesty to grant specific rank to captain Brodie, he would have been the last man to have supported it; but it was in fact no such thing; it was an address drawn generally, and praying his Majesty to bestow some mark of his royal favour upon captain Brodie, leaving it to himself to determine its nature. He could have wished that the facts on which the claim of captain Brodie rested, had been more formally before the House than they were; but the case stood upon the ground on which various other cases had stood, and upon which that House had thought themselves warranted to proceed: it rested upon the ground of notoriety. He instanced the case of general Monckton to prove, that although captain Brodie's services were services many years since performed, the House had established a precedent of a similar nature. In 1773, general Monckton had been on the eve of being sent out to India as commander in chief of the forces there; but it was afterwards thought advisable to send out sir John Clavering: in that case, in order to make general Monckton some amends for his disappointment, a motion was brought forwards in that House to address his Majesty, to pray him to grant some mark of his royal favour to general Monckton for his meritorious services. The services of general Monckton had undoubtedly been meritorious; but they had been services performed many years preceding the year 1773: what made the case stronger, too, was, the circumstance that general Monckton had not been disappointed of an opportunity of serving his Majesty, but of serving the East India Company.

Lord *Mulgrave* observed, that it would be a mockery upon captain Brodie were that House to vote an address, not pointing to specific rank, and from the words of which his Majesty's ministers could not collect the real sense of the House, when almost every gentleman who had spoken in support of the motion expressly declared, that the rank of a vice-admiral was his object, and that his not being promoted to the list of flag officers was the ground of his complaint. Dangerous, indeed, was the precedent which the House would establish, if they in so glaring a manner interfered with the executive government: it would materially affect the discipline and subordination of the service, and bring upon the House an endless repetition of applications of a nature in some sort similar with the present. Were the address to be carried, every officer in the service, who had not been promoted as rapidly as in his own opinion he deserved to be, would have nothing to do but to get a friend to rise in Parliament, and to move an address to the Crown: this would not only take the House out of its line of duty, but would deprive the executive power of the exercise of that discretion which belonged to it, in making out such lists of promotions as to its wisdom seemed proper, and thus do away that responsibility which belonged to the different departments of administration. Extensive, indeed, was the number of gallant officers, whom, for a variety of reasons, an Admiralty Board might deem fit to be captains of ships, but not qualified to be entrusted with the command of fleets, or to be admirals, upon whose single judgment the fate of the nation might occasionally depend; and while that was the case, there were means (as the House well knew) of setting them aside. Lord Mulgrave spoke also of officers who, like captain Brodie, had been mutilated in the service, and upon being offered to be employed in certain climates or on certain services, had, like honest men, declared themselves incapable, and begged leave to decline continuing in it: to those men the country was indebted, as well as to captain Brodie; and would that House set up so invidious a distinction as to select captain Brodie, and advise his Majesty to act differently with respect to him, to what had been uniformly held by

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Government to the rest of a very large description of worthy officers?

Mr. *Pulteney* having premised, that it was argued on the one hand, that captain Brodie was an officer of uncommon merit, and that he ought to have been promoted to the rank of a flag officer; and on the other, that a general rule had been laid down, and invariably adhered to in the service, which had operated against his promotion; added, that in such a case it would be worth while to inquire into the nature of the rule, and see whether it was warrantable for that House to interfere. The Board of Admiralty could not get over this order or rule, and therefore they certainly stood justified: this being the case, the House might interfere in the manner proposed by the motion; for it was the proper function of that House to help the executive government, where its powers were either naturally deficient, or cramped by any general rule. There was no general rule without exception, and this appeared to him to be one exception; and after what the House had heard of captain Brodie's meritorious services, without so much as the slightest insinuation of a reproach on his character, or on any part of his conduct, it surely was an exception upon which that House would not only be justified in acting, but would do wrong not to act.

Mr. *Dundas*, adverting to the contrariety of arguments advanced by the supporters of the motion, observed, that Mr. Fox had said, that if he thought the Address an address for specific rank, he would be the last man to vote for it; and the hon. baronet, who made the motion, had laid great stress upon its not being a motion for emolument or reward, but a motion for the obtainment of that restoration to rank to which capt. Brodie was entitled. The hon. gentleman also who spoke last contended, that the Admiralty Board could not promote capt. Brodie on account of the order which had been mentioned. This difference of opinion was a clear proof of the embarrassment in which the House would always find itself involved, whenever it departed from its peculiar province, and attempted to assume the exercise of the executive power. He urged the extraordinary conduct of contending at that day for rewards for services performed thirty years ago.

Sir *George Collier* instanced the case of admiral Matthews, who had been put upon the superannuated list, and was afterwards made a flag officer: he also mentioned the case of the late sir Thomas Pye, and reasoned upon it, to prove that captain Brodie ought to be restored to his rank.

Mr. *Pye* rose to state the particular fact with respect to his late relation, and said, that it did not apply exactly as the hon. baronet had put it in argument.

Mr. *Dempster* argued in favour of the motion, and said, that the House need not be afraid of establishing a precedent which would produce future inconvenience, since he believed it almost impossible to instance so strong a claim as that of captain Brodie.

Mr. *Brett* remarked, that the order alluded to so frequently had not been correctly understood; he then explained the nature of it, to show that it did not operate exactly as gentlemen had conceived.

Commodore *Bowyer* said, that although he wished capt. Brodie as well as his own warm heart could desire, yet he must ever stand up a supporter of the Board of Admiralty, unless proof were given of its having abused its powers. He stated instances which showed the necessity of the Board possessing a discretional power to distribute rank and promotion in the service: they might know an officer to be a skulker, or a man who having got the command of a ship, resigned it as soon as the ship was ordered to sea, then obtained the command of a second, and did the same. In such cases surely the Board ought to have a discretional power to enable them to set such officers aside. Various were the reasons, on the other hand, which might prevent an officer from being employed: he might have a quarrel with the first lord of the Admiralty; he might have an election interest in a borough, and give it contrary to the wish of a minister; he might be of a party, and act against Government in the House of Commons.

Mr. *Sheridan* remarked, that from the explanation which Mr. Brett had given of the order in question, it was plain that Government had the power to restore captain Brodie to his rank. Would the right hon. gentleman, therefore, permit it to be understood, that captain Brodie's case should be taken into consideration by Government? If he would, he should advise the hon. baronet not to press his motion.

Mr. *Pitt* did not choose to accede to the proposition.

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Sir *M. W. Ridley* was so far from wishing to interfere with the executive government, that with the leave of the House he would withdraw his motion, and make another in still more general terms. He accordingly moved, "That an humble Address be presented to his Majesty, that his Majesty will be graciously pleased to take the meritorious services and sufferings of captain David Brodie into his royal consideration; and that his Majesty will be pleased to confer some mark of his royal favour on the said captain Brodie, as to his Majesty shall seem proper."

Mr. *Pitt* still declared himself averse from the principle of the motion, let it assume any shape it might; because he considered it as a palpable interference of the House with the promotions of the navy; he should therefore persist in giving it his decided negative.

After some further conversation the House divided:

Tellers.

Yeas	Sir M. W. Ridley . . Sir John Miller . . .	83
Noes	Marquis of Graham . . Mr. Fenton Cawthorne	100

So it passed in the negative.

Debate on Mr. Fox's Motion respecting the Nature and Extent of Parliamentary Addresses to the King.] March 7. In pursuance of the notice he had given,

Mr. *Fox* rose for the purpose of making a motion concerning the nature and extent of Parliamentary Addresses to the Crown. He said, that he felt it his duty to call the attention of the House to a few remarks which he must beg leave to make on a recent occurrence, in which, at least in his conception, were most essentially involved the established rights of Parliament, and the best interests of the nation. The matter to which he alluded was the Address which that House had thought proper to vote on the Commercial Treaty. [See p. 469]. The time at which this Address was moved and passed tended, in his mind, to subvert the forms of Parliament, and thereby to destroy the legislative authority, the spirit of the constitution, and, consequently the dearest privileges of the nation. On the preservation of the forms of Parliament the security of the laws depended. No part of the constitution had been more tenaciously preserved than the forms by which all laws were enacted. If the forms were dispensed with, the constitution of the Legislature must be annihilated; and he thought that the forms were destroyed, by the Address being passed on a subject before that subject was determined. For this Address having been passed after certain resolutions had passed, and previous to a Bill being brought in founded upon those resolutions, the House were precluded from exercising their right of decision on the subject; and the words of the Address containing not only an approbation, but a pledge, of using the earliest means of carrying the Treaty into effect, he thought the intention was to preclude Parliament from the exercise of their opinions, with which they were invested by the constitution. With respect to the system of this parliamentary form, as to its efficient political principle, he should observe, that the modes of passing bills, both in this and the other House, were certainly very deliberate. They might indeed, in the opinion of some, be considered as tedious; but those gentlemen who entertained such sentiments betrayed their rashness and inexperience. He did not mean to say what were the forms of the other House; he had never studied them, and was therefore not so well acquainted with them as with those of the House of Commons. In the latter, the form of passing a bill of such importance as the present, there were several stages. A bill relating to commerce or finance, was, 1st, moved for in a committee; 2nd, that committee reported; 3d, leave was given to bring in a bill; 4th, the bill was read a first time; 5th, a second time; 6th, committed; 7th, reported; 8th, read a third time; and 9th, passed; besides two other stages of lesser consideration, the engrossment, and the motion for leaving the chair. The reason of these different stages was in order to give Parliament so many different opportunities of considering the tendency of the measure before they finally gave it their concurrence. This caution was therefore exceedingly wise; for nothing required more deliberation than laws enacted for the welfare, protection, and government of the people; and therefore it became their constitutional guardians, their representatives, to be exceedingly cautious of adopting any measure which might tend to preclude them from the free and unlimited exercise of their judgments, on every subject in which the interests of the country were essentially concerned. It

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was with this view that he meant to submit to them, before he sat down, his motion; for he was clearly of opinion, that the address which the House had lately voted to his Majesty was an infringement of the free, unbiassed, and unrestrained exercise of their judgment. After the business had been only four or five days before Parliament, and in its second stage, the House had absolutely come to a vote which precluded them from giving any opinion in the subsequent stages through which the treaty was to pass; and thus, whatever their sentiments were, or might be, they could not prove availing. Having pledged themselves to his Majesty to take all early and possible means of carrying the said treaty into effect, they were reduced to a very unpleasant dilemma, either to let the treaty pass, however repugnant its principles, or subject themselves to the charge of having given a faithless promise to his Majesty. This was of all situations the most to be avoided. It was derogatory to that sacred faith which should be preserved, and that respect which they should entertain in all concerns either of addresses or promises to the sovereign. As to the plea that no necessity existed for adhering to the accustomed parliamentary forms in the present transaction, he could not see any principle in the Commercial Treaty which could authorize Parliament to let it pass with less inquiry and circumspection than even the most ordinary concerns. On the contrary, it was a subject, which, of all others, required the most deliberate investigation. Besides, being a commercial question, it became such a subject that the Parliament had thought it expedient even to add two more stages to the investigation than what were adopted on ordinary concerns. The committee of the whole House and the report were added by a resolution of Parliament in the year 1772. Thus, not only the invariable custom of ancient times envinced the necessity of giving every possible opportunity for the House to consider most maturely the tendency of any bill in its different stages; but the opinion of modern times had been, that it was necessary to increase the stages of inquiry on a subject of such importance. With regard to himself, he had been censured for repeatedly recurring to one subject. But this was a species of censure which he should treat with contempt. This was the case in the present instance. He had, during the progress of this business, frequently mentioned the Treaty of Utrecht. He should now beg leave to mention that subject again, as it tended to illustrate what he had to propose to the House. Had the ministry of that day voted an address to queen Anne, and in it induced Parliament to pledge themselves to carry the said treaty into effect at the time of its progress through the House, as they had on the present occasion, the consequence must have been the passing of the commercial part of the Treaty into a law; for it was only by not doing it that this evil had been avoided. During the first stages of the consideration of that Treaty in parliament, there was no material opposition. On the contrary, it passed through the committee, and was reported by very considerable majorities. But, in the subsequent stages, information was obtained, objections were made, and the majority of Parliament very wisely rejected it, as a measure that threatened the whole commercial interest of the country almost with annihilation. Happy, therefore, it was, that the ministry of that day did not bring a motion for an address to her Majesty before Parliament, when the majorities of the House were so much in favour of the Treaty. If they had, the address would certainly have passed, and the country would have been ruined. To this he attributed all the subsequent prosperity and glory we had acquired. To the rejection of the commercial part of the Treaty that great queen owed her highest honours, if not her regal dignities.

Mr. Fox now adverted to the manner in which the bill for carrying the Treaty into effect had been connected with that for the consolidation of the customs. This, he observed, had likewise a close relation to the subject on which he had been troubling the House. By this vote of address, the lords in the other House would not have an opportunity of exercising their judgments in the passing of the Bill to which he alluded. Besides, as it was connected with the consolidation of the customs, they were even precluded, by this means, from exercising the only right they had—with respect to a money bill—of adopting or rejecting it. If they were disposed to reject the consolidation bill, they could not, as it was connected with a subject they had pledged themselves to carry into effect. And if they were disposed to alter any parts of the Commercial Treaty, with regard to any

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matter in their power, they could not, as it formed part of a money bill; and thus was the exercise of their lordships rights fettered by the address, and by uniting these two subjects. This address, too, would entirely prevent the House from adopting any system that might hereafter be settled with respect to Portugal, if such system deviated from that established in the Treaty with France. We had, therefore, not only deprived ourselves of the privilege of exercising our opinions and discretion, with regard to the Treaty itself; but we had likewise deprived ourselves of the privilege of exercising any opinion or decision on pending treaties with foreign powers, if they did not happen perfectly to coincide with the one negociated with France.

Mr. Fox now made some observations on the manner in which the Court of France had depended on the ratification of this Treaty. They had stated in the convention—"as soon as it had received the sanction of the law." But to receive this sanction of the law, it must be submitted to all those forms and investigations which constituted our laws. And as the address prevented this possibility, the Treaty could not be said to have the sanction of the law. How, then, could the French Court expect it to be ratified? He consequently thought that the address had absolutely destroyed the legal possibility of the Treaty being so carried into effect as to admit of a ratification. To have the sanction of our laws, as he before observed, it was necessary that it should pass every form of parliament. But if that House was precluded from giving their opinions, whatever forms or stages it might pass through, they could be of no effect with regard to legal efficiency. In this point of view, he thought the address absolutely destructive of the intention for which it was professedly moved; for that of carrying the subject as immediately into effect as possible. For nothing could have the efficiency of law that was not properly submitted to those forms which the constitution prescribed for the making of such laws.

Mr. Fox next adverted to the nature of addresses to his Majesty. There were two modes in which such addresses were necessary and serviceable. These were with regard to negociation and the prosecution of war. In both these instances, addresses strengthened the effort of Government. But then they contained no particular pledges. They contained, in general terms, an offer of their lives and properties in support of the measures then prosecuting. But how did such addresses differ from the present? Instead of containing a general disposition or approbation of a treaty being formed with France, it contained a specific assurance that the particulars of the Treaty should be carried into effect. What was this but interfering in the most unconstitutional manner with the rights of the Legislature? What had the House done in agreeing to such an address? They had even given a sacred promise to Majesty, which it was not in their power to give. No opinion, at least no assurance could be given, that any measure should be carried into effect while it was depending in parliament. For there was no stage of any bill passing through that House, in which Parliament could assure any one that it should pass until the last stage. Then a decided assurance might be given, and not before.

Thus had Parliament by this Address, given his Majesty an assurance, which they could not give consistently with the principles of law, legislation, and the constitution. They were likewise so situated, that all future proceedings in this business would be nugatory. They had dispensed with their own privileges; and however inimical they might find, on more mature consideration, and more complete information than they had before been able to obtain, the tendency of it to injure the prosperity of the commerce, the existence of the navigation, and the preservation of the constitution—yet they must carry the Treaty into effect. They had pledged themselves to their Sovereign; and if they did not mean to couch a faithless promise under a solemn assurance to his Majesty, they could not recede from their vote. This was the predicament to which they were reduced by this premature proceeding. And in what manner to rescue themselves from either of these alternatives he knew not. But in order to relieve them as far as it was possible from their embarrassing situation, he would offer a protest, or motion, whereby the House would declare they were not bound by any Address to the Throne from deliberating and acting in its legislative capacity; nor that the subject was in any degree prevented from petitioning the House in consequence of such address. This, he said, would be a declaration of right; and would tend to do away the unconstitutional effects of

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the address. He accordingly moved, "That no Address from this House to the Throne can, in any degree, bind or pledge this House, in its legislative capacity, or bar the subjects' right of petitioning this House, upon any bill depending in Parliament, although such bill be founded upon, and conformable to such Address, previously agreed to by the House."

Mr. *Pitt* said, that he had waited with anxiety for the arrival of the day on which the right hon. gentleman would make his promised motion, having no small curiosity to learn by what sort of arguments he would support it. He had listened with the utmost attention, and would venture to declare that there had not been the smallest occasion for the wonderful display of the eloquence and abilities of the right hon. gentleman to prove one part of his argument, and that even the eloquence of an angel could not have successfully maintained the other. The right hon. gentleman had exerted all his talents to labour two separate points. One a mere child would have been able to argue, because it was on the face of it a self-evident truism, and what no person either had, or would deny: it was, that the House could not so far commit itself as to deprive itself of the free exercise of its deliberative powers, to incapacitate the Speaker from putting a question on a bill, yet to be brought in, on any one stage of it, or impede and embarrass the full and free discussion of the principle of the bill, or prevent, if necessary, its final rejection. The other point was impracticable, even by his eloquence, because no mortal eloquence could attain it. It was to persuade the House that by their late address to his Majesty, it had itself resigned its rights, that it had itself surrendered its functions, that it had itself abandoned its deliberative powers, and given up all claim to the free exercise of them, and that, in fine, it had itself violated the constitution. On the first of these points he would not take up the time of the House in making any observations. He allowed it to the right hon. gentleman in its fullest extent, and let him see what deductions he could make from it. To the second he must observe, that he did not, for one, conceive himself committed by the address; nor did, he was satisfied, those gentlemen who gave Government their support, feel themselves so far pledged, but that if the general opinion were totally adverse to the Treaty, if any new information arose or any new argument of weight on the old information, they might alter their decision. All the Address went to say was, that the House had taken the Treaty into their most serious consideration, and that so far they approved of it—not however, by any means surrendering their right of future discussion, or even rejection of the Bill in any of its stages. The right hon. gentleman had argued, that in addition to the ordinary forms of a bill, every act relative to matters of commerce, must go through a committee of the whole House, and be reported from that committee. He had asserted that the Bill was already pledged for, and the House committed in, the first, second, or third stage. As to the committee of the House, he had already stated his sentiments; and as to the number of stages, so wisely provided by our ancestors, the House would observe, so far from retrenching, he had, in fact, added two new stages; and these were the address and the report of that address; so that, instead of weakening the constitutional right of that House to full, frequent, and deliberative discussion, he had, to the utmost of his power, strengthened and maintained it.

The right hon. gentleman had, by a strange fatality, referred constantly to the Treaty of Utrecht, and seemed to imagine that as that Treaty was, like the present, at first received favourably by the House, so might the present, in the end, like that Treaty, be demolished. He would just beg leave to state the history of that Treaty. It was not announced to that House or to the nation, until the 9th of May 1713; on the 14th, the first reading of the Bill, it was carried through the House by a large majority; but the outcry of the nation becoming more and more strong against it, on the 19th of June following it was finally lost on the report. Did the conduct of the present ministers bear any analogy to this? In October last, the Commercial Treaty with France was before the public; from that time to this it had been open to discussion and objection. The ingenuity of the right hon. gentleman, and the industry of the gentlemen who surrounded him, had been exerted to prejudice the minds of the people and conjure up objections against the Treaty in vain. No objections had appeared during the course of five months —it was now March—did that look like a dread in ministers that the Treaty would not bear inspection, or did it resemble a wish to to take the House by surprise, and

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draw it into a premature pledge to the future Bill, before they had time to examine its contents? The right hon. gentleman had said, that the House by pledging itself to the address, had pledged itself to pass certain future specific bills; and that his Majesty, in his answer, would probably express his approbation of their intention, and that such a circumstance would be a direct infringement of the principles of our constitution, in that the executive power thus interfered, and took cognizance of, and influenced the discussion of the House. To that assertion he must give an absolute denial. What did the address say? It told his Majesty, that the House had received the Treaty, which he had ordered to be laid before them; that they had examined, and, as far as they at present could judge, approved it, and were disposed to carry it into effect by certain laws. His Majesty might, in his answer, say he was glad to find they approved it. What did that tell the House? It conveyed his Majesty's approbation of—what? The very treaty which he had made himself, and recommended to their notice in his Speech from the Throne. The right hon. gentleman might as well assert his Majesty's Speech on opening the session to be a violation of the spirit of the constitution, as well as the answer to the address; for one was as much a mode of influencing the proceedings of the House and controlling the freedom of debate as the other. The right hon. gentleman had, with as much warmth as if it were introductory of an impeachment, challenged any man to produce an instance of such an interposition of the Crown. What would the right hon. gentleman say, if instances were produced, and that, too, in an æra which even he would admit to be the best of all possible times, as these were, in his opinion the worst? Every man formed his own judgment as to which were the best and which the worst of times; and the expression of the worst of times might to him appear rather too severe, were it not that the words admitted of some latitude of interpretation; and it was to be remembered, that the worst of times in the right hon. gentleman's interpretation meant those times in which he was under the mortifying necessity of dividing with a minority. The precedents he meant to allude to, however, were in the best of times; upon recollection, he ought to beg pardon—not the best of all possible times, but the best, except one, of all possible times;—at the period when the right hon. gentleman was Secretary of State for the first time, before he had extended his base and formed those connexions which introduced the second auspicious æra. It appeared on the Journals of the House, that, in the year 1782, in consequence of a message from his Majesty by Mr. Secretary Fox, the House passed two resolutions, and addressed the King relative to the jealousy that subsisted between this and the sister kingdom, which Resolutions and Address contained a promise of the repeal of the 6th of George I.; and on those Resolutions and that Address, and antecedent to the repeal of the positive statute, there had been a minister found hardy enough not only to advise his Majesty to testify his approbation of the intention of the House, signified in the said Resolutions, but which were not communicated to the Throne, but absolutely, officially to communicate such intention through the channel of the Lord-lieutenant to the parliament of Ireland, which, in their Address in return, recognized and admitted such a declaration. Here was a manifest interposition of the Crown, testifying under the auspices and by the advice of the right hon. gentleman to another legislature, the intention of the legislature of this country; and this at a time when they had not testified it themselves. After this, what became of the apprehension of the right hon. gentleman for the constitution of the country, and the privileges of this House? Upon the whole, what did the arguments go to prove? The right hon. gentleman had told the individual members of the House, that it was committed and concluded by their Address; and therefore, he moved a resolution, stating, that the House collectively was not committed and concluded; but as a great and a very respectable majority did not feel themselves tied down in the manner described by the right hon. gentleman, and therefore could not admit the necessity of the motion; he would move, in order to negative the whole, to prefix the following words by way of amendment; viz. "That it is necessary to declare, &c."

Mr. *Bastard* said, that the resolutions of 1782 were merely resolutions of their own, uncommunicated by them to the Sovereign, and liable to be rescinded by subsequent resolutions; and that the precedents from the Journals of the Irish parliament could not be considered as precedents for the direction of that House.

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He declared that he had voted for the Commercial Treaty; but as soon as he had heard the Address moved, he considered it as pledging the House most unconstitutionally, and he voted against it.

Mr. *Fox* said, that he thanked the right hon. gentleman for having put him in mind of the Irish propositions, which he had accidentally passed over before. The Address, in that case, he contended, was in no sort similar to the Address lately voted. In the case of the Irish propositions, the Parliament of England and Ireland were in the situation of negociators, and the Crown was a sort of mediator between both. He hoped not to be deemed pedantic, when he used diplomatic allusions; but as they would best express his meaning, he would, for once, adopt them. He conceived the original Irish propositions to be a project for a treaty on the part of Ireland, and those resolutions sent over by the Parliament of Great Britain might be deemed a counter project for a treaty, the Crown being a medium of communication. The Address, therefore, had necessarily, in that case, been extremely different from the late Address. Indeed, so different as not to be in any sort capable of being drawn into comparison with it. That Address could go to nothing, since the British Parliament could not stir a step farther till they heard more from Ireland. Having explained the irrelevancy of the case of the Address to the Crown upon the Irish propositions, he would hasten to the other Irish precedent, that of 1782, relative to the repeal of the 6th of George I.; and here he could not help remarking, that, for the sake of enjoying the triumph of some pleasantry at his expense, which, no doubt, the right hon. gentleman thought too good to lose an opportunity of exhibiting, the right hon. gentleman had fixed an expression upon him which he had not used, by saying, that these were the worst of times. But, the right hon. gentleman by such means was enabled to pursue his play upon words, and to talk of precedents in the best of times, and the next best of times but one; an expression he had likewise never used. [The Chancellor of the Exchequer said across the table, That was my mistake, and I stated it to be so.] Mr. Fox said, Oh, then, the right hon. gentleman made a mistake on purpose to fix another pleasantry upon me. It matters not, let us proceed to the precedent. The resolutions of 1782 were never carried by an address to the Crown, but were merely resolutions of their own, which made a very essential difference in the nature of the two cases. Indeed, to give the case of 1782 the smallest appearance of being a case in point, the right hon. gentleman had found it necessary to abandon the Journals of the English House of Commons, and have recourse to the Journals of the Irish House of Commons. The right hon. gentleman had dwelt a good deal on the irregularity of the duke of Portland's mode of treating for a new constitution, and contended that what might be highly unjustifiable in a minister when the constitution of Ireland was settled, was of a different complexion as matters then stood. The right hon. gentleman had pointed this part of his argument personally at him, forgetting in the first place that he had not at any time been very much in the habit of finding fault with that administration, and that a noble marquis (for whom the right hon. gentleman used to profess strong sentiments of respect and regard, however altered those sentiments might now be), had an equal share in the measure with himself. He had no objection, however, to take the whole of the responsibility upon himself; and if the whole transaction had been to do over again, and he were asked if he would act the same part and instruct the Lord-lieutenant in the same manner, he would answer, he certainly would, under the same circumstances; for, he considered Ireland as then making out her declaration of right, which was to form the basis of the new constitution she was treating for. He instanced as a parallel case, the conduct of the Convention Parliament, while they were holding out their declaration of right as the terms of their treaty with the future sovereigns, William and Mary.

Mr. *Pitt* was glad the right hon. gentleman was, at last, willing to state the Irish propositions, and the British resolutions upon them, as a project for a treaty and a counter project: with that description of the business he was perfectly contented, and hoped the right hon. gentleman would remember, that he was himself the author of that character of the business. He insisted upon it, that the case of 1782 was in point, and declared that the right hon. gentleman had been so far from defending his own argument, that he had even been glad to defend a noble marquis whom, on most occasions, he had

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been eager to abuse and to attack. With regard to that noble marquis, in many parts of his conduct, he thought no character more entitled to his respect and his esteem; and in one great and signal instance he was entitled to the thanks of the House and the gratitude of his country. After this tribute of praise to lord Lansdowne, Mr. Pitt entered into the precedent of 1782, declaring his opinion of it to be, that it was extremely irregular at the least, and a more violent deviation from the forms of Parliament than the Address lately voted, which was supported by precedent, which did not pledge the House in any degree, but, on the contrary, did no more than assure his Majesty, how far they had proceeded in compliance with his royal recommendation from the Throne. He stated the history of the precedent of 1782, and denied that the parallel between the conduct of the Convention Parliament and the conduct of the Parliament of Ireland were analogous; observing, that Ireland had, in 1782, a complete legislature of King, Lords, and Commons, and might just as well have done by bill, regularly and formally, what it did by resolution and address. He must remind the right hon. gentleman, that at that time he and the noble marquis had, as it were, run a race with each other, who should be the first to get the resolutions passed in both Houses, and communicate them to the Parliament of Ireland.

Mr. *Sheridan* begged leave to call to the recollection of Mr. Pitt, that he (Mr. S.) had on a former occasion charged him with having not only brought in a bill differing in the vital part of the system, in the permanency of it, from the resolutions grounded on the Irish propositions, but had asserted, that the Secretary in Ireland had also brought in a bill there, differing as much from the English bill; and that the Chancellor of the Exchequer of Ireland had laid great stress in his argument on the circumstance, that the Irish Bill did so essentially differ from the Bill sent over from England. The right hon. gentleman had formerly said, he no longer should consider himself as useful to his country, if he could not carry the measure respecting Ireland through. Mr. Sheridan ridiculed some words which, he declared he had taken down, as the reason assigned by the right hon. gentleman in justification of the Address; viz. that such a visionary and abominable style of argument had been taken by Opposition against the Commercial Treaty, that it became necessary, as soon as possible, to carry the Resolutions up to the Throne with an Address, in order to convince the people that Parliament was not swayed by such sort of argument. The considerable majority the Treaty had been carried by, might sufficiently have operated to show, that however forcible the arguments of his right hon. friend had intrinsically been, they had not been allowed to have much weight within those walls: since, however, so new a reason to justify an address had been stated, he would advise the right hon. gentleman, another time, not to rest the justification of his address upon a casual intimation in the course of his speech, but to confess the fact, and to declare it in express words in the preamble of the Address itself. He should not therefore wonder to see very shortly an address beginning thus: "Whereas the right hon. Charles James Fox has used certain abominable arguments of a nature tending to convince the public of the fallacy of the measures now pursuing," &c. &c.—Mr. Sheridan now begged leave to notice what the right hon. gentleman had said of minorities, and declared that the right hon. gentleman had been in the only situation in a minority, that could make a man's voting in a minority contemptible; viz. the holding his office as Chancellor of the Exchequer, and nevertheless voting in a minority: such a situation was not only contemptible, but unconstitutional; besides, it proved that, great even as his respect for majorities, and ardent as his love of them was, his love of office was greater, since the fact established, beyond all possibility of contradiction, that possession of office was his first of all objects.—Mr. Sheridan at length returned to the immediate question, which he particularly pressed upon the House, instancing the general mode of proceeding throughout the business; and in particular the blending the French Treaty and the consolidation of duties, in one bill, as unanswerable proofs that it was right to come to some general resolution in order to guard the constitution against dangerous and unnecessary innovation; for the Address could not forward the carrying the Treaty into effect a single day, because it could neither open our ports to French ships, lower the duties, nor in any degree smooth the way to the opening of a commercial intercourse: such a resolution could not, in the first

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instance, be denied to be true, and if that were universally admitted, could any one time be assigned as a more fit moment for putting it upon their Journals, than immediately after their having voted an unconstitutional address to the Crown, and after the contradictory conduct of the right hon. gentleman, who had, in the early progress of the business, argued as if it were right to pledge the House, and had asked what reason could be assigned, why it should not be pledged after having so far considered the Resolutions, and approved of them? But finding that such doctrines shackled his favourite majority; and that it was likely to diminish, he had in a late debate changed his note, and at an advanced time of the night, in a most equivocal speech, argued that the Address only pledged those who were prepared to be pledged, but that it did not pledge gentlemen who did not choose to admit they were pledged. This sort of double-edged speech ought to be fixed to some certain standard, and the Resolution that his right hon. friend had moved, would have that effect.

The *Attorney General* declared, that he meant not to go into the wide field of argument that had been taken on topics wholly foreign to the subject under consideration. With regard to the marquis of Lansdowne, if any part of his public conduct had been called in question, he was persuaded his right hon. friend would have stood up and done the noble marquis justice; but when such groundless insinuations, such distant hints to his prejudice, such attempts, at it were, to whisper away the noble marquis's character, were made, no man would think it became him to rise, and by entering into a serious defence, in effect countenance what ought only to be treated with contempt: for his own part, he felt very great respect for the noble marquis; he had been exceedingly obliged by him when he had done him the honour to call him, in an humble station indeed, into that administration of which the noble marquis was at the head; and as the noble marquis had done his country the most signal service that any one minister had of late years conferred upon it, whenever that part of his conduct was called in question, he would think it his duty to rise and do him all the justice which he desired. Having said this, Mr. Attorney contended that the hon. gentleman had not made out that the Address did pledge the House, and had asked, when would be the fit time for voting the present Resolutions, if that were not the fit moment? The fit moment would be, when ministers should, hereafter, use the Address as an argument to induce gentlemen to vote without deliberation, and pretend that it pledged them to vote for the Bill or Bills without discussion of any kind—that was the only moment when the Resolutions would be justifiable, because the words of the amendment would in that case be made out, and it would then be necessary. There was, indeed, one other time when it would also be fit to vote such Resolutions, and that was, when any attempt should be made in another place to use the Address unconstitutionally, and there to cite it, as pledging future votes and precluding deliberation.

Mr. *Bearcroft* said, that he had not heard any argument that appeared to be decisive in favour of the motion. A great deal had been said about pledging: he had hoped to have heard the word 'pledging' defined and explained. If the House would give him leave, he would endeavour to define it. He took pledging to mean the binding down a person to the performance of some specific act. Did the Address pledge the House in any such manner? He conceived, that it did not, nor any thing like it. His Majesty, in his Speech from the Throne, had signified to the House that he had concluded a commercial treaty with France, and his Majesty stated the reasons which had governed his conduct in that particular, and recommended it to the House to take the proper steps for carrying the Treaty into effect. That House, in consequence of this recommendation, and on principles of respect and duty to the Crown, had taken it into their serious consideration. They had discussed the principle of the Treaty, examined every article of it, and deliberately debated the whole for six days together, and having come to certain resolutions confirming the various articles of the tariff, they had voted an address, thanking his Majesty for having made the Treaty, declaring that they coincided in sentiment respecting its probable advantages, and avowing their resolution to take the proper steps for carrying the Treaty into effect. This appeared to him to be the proper proceeding of the House in that stage of the business, and by no means liable, in fair construction, to be considered as amounting to a pledge upon the House, depriving it of its deliberative powers, or

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binding it down to any vote whatever in any subsequent stage of the business. The Treaty was founded on amity and reciprocal advantage; it would, in all probability, have the effect of securing peace for centuries to come. Upon that consideration alone, were there no other, he would have supported it, and voted for the Address.

The question of the amendment was then put and carried; and afterwards the main question so amended was put, when the House divided: Yeas, 113; Noes, 188.

Debate in the Commons on the Articles of Charge against Mr. Hastings.] Feb 19. Mr. *Burke* rose to bespeak the attention of the House to a matter of considerable importance, and which he thought it incumbent upon him to suggest, though he did not mean to conclude what he had to say with any formal notice or motion. The subject he wished to call their attention to, was the impeachment of Mr. Hastings, the proceedings on which were now arrived to that sort of length that seemed to make it necessary that some step should be taken, in order to render the person and property of Mr. Hastings amenable to justice. At present, though a most respectable and decided majority of their committee had solemnly determined that there was matter of impeachment in two of the principal, most serious, and most weighty articles, that had been exhibited before the Parliament, or rather before the House of Commons, Mr. Hastings was at his full liberty, participating freely in all the enjoyments and pleasures of social life. After the House, therefore, had fixed substantially its stigma, which was surely a grave and considerable degree of censure, it became them, for the sake of their own justice, for the sake of justice to the party, and from a variety of considerations, to proceed, as soon as the circumstances of the case would admit, to put the matter in a way to have final judgment passed. The affairs of India, during which the facts criminally charged on Mr. Hastings had taken place, had been under the consideration of that House above seven years; and the proceedings relative to the impeachment had now been going on for two sessions, in the course of which, as he had before mentioned, two charges involving a considerable share of criminality, had been investigated and affirmed. In all matters of criminal justice, two things ought to be avoided with the utmost caution, precipitation and rashness in urging accusation and pushing forward to decision; and on the other hand unnecessary delay and tediousness in proceeding to obtain a trial of the charge, after it had been determined upon solemn and minute investigation of the alleged criminal facts, that there were strong grounds for accusation. The slowness of their deliberating upon the alleged criminal facts, and the cautious minuteness of their inquiry into their validity, were matters of notoriety; but those circumstances he considered as likely to give them advantage in their future proceedings towards the obtainment of judgment. Mr. Burke declared he had not formed any distinct idea what would be the most advisable mode for the House to pursue; but it certainly behoved them to take some steps to manifest to the people of Great Britain, whose eyes were fixed upon them and upon their measures in a matter of so much importance—as well as to let it go forth to the persons with a view to do justice to whom, though living in a remote quarter of the globe, that House had taken such proper pains—that they were in earnest, and that they intended to bring the prosecution to a serious issue, with all the dispatch that decency could warrant. In the present case, from perhaps a laudable candour, the House had not proceeded after the old established precedents in cases of impeachment, but had formed themselves into what might properly be called a committee of inquiry, in order to ascertain whether there were fit grounds of impeachment or not: they had now found that there were grounds, and having done so, the sooner they resorted to the ancient mode of proceeding the better. Their mode of proceeding hitherto, whatever difference of opinion there might be as to its propriety, every man who knew any thing of the usage of Parliament in cases of impeachment, must agree was altogether new. What he had in contemplation to do, therefore, was, to move an impeachment in the House on some future day; and if it was agreed to, as he trusted it would necessarily be after what had passed, he should then move to lodge a notice in the House of Lords—the tribunal before which the cause must necessarily go for trial—that the House of Commons had determined to impeach Warren Hastings, esq. of high crimes and misdemeanors, and that they were employed in preparing the articles. In which case proper steps might be taken to pre-

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vent the party to be impeached, from quitting the kingdom, disposing of his property, alienating any sums of money, or taking any other step to evade the ends of justice. Mr. Burke said, that one circumstance which pointed out this, or some such proceeding, as absolutely necessary, was his having heard, that within a short time one of the gentlemen from India, against whom some proceedings of a serious nature would be proposed to be instituted, had sold out of the public funds very considerable sums of his property.

Major *Scott* observed, that as the right hon. gentleman had made no motion relative to the impeachment, he should reserve what he had to say on that subject until it came regularly before the House; but as he had mentioned a circumstance which might be misunderstood by the House, he begged to say a few words by way of explanation. The right hon. gentleman had said, that a considerable sum of money had lately been sold out of the public funds; it was true, he did not say that any of the stock belonged to Mr. Hastings, yet he was afraid the House, without an explanation, might so understand it. The major then declared, upon his honour, that he was confident he knew much more of the state of Mr. Hastings's private fortune than he did himself; and he assured the right hon. gentleman and the House, that Mr. Hastings had not sold out a shilling of stock from any fund; that he had but 2,000*l.* in the funds; that the remainder of his fortune was upon mortgages, on one estate in Shropshire, and on another in Kent, besides a set of bills upon the East-India Company. The whole of Mr. Hastings's fortune, taken together, the major avowed upon his honour, did not exceed 50,000*l.*

Mr. *Pitt* said, that from the general manner in which the right hon. gentleman had given his notice, it was impossible for him to understand correctly what was the specific motion intended to be made. He did not mean to anticipate the debate on the subject; but he wished to remind the right hon. gentleman, that the House were as yet wholly unacquainted with the subject of Mr. Hastings's criminality; every thing they had hitherto passed concerning him, having passed in a committee. Did the right hon. gentleman intend to proceed to press a partial resolution on the House, in the present unfinished state of the inquiry before the committee, or did he mean to abandon all the rest of the charges? The principle adopted by the House in the commencement of the business, was, that they should proceed separately to vote such articles as seemed to them to contain impeachable matter, not holding themselves bound to vote the impeachment itself upon any one, or any given number of such articles, but reserving a discretion to itself, of taking the whole body of the charges so found by them into one general consideration, and determining upon such general view, whether on the whole there was sufficient ground for sending up an impeachment. In pursuance of this principle, the object for gentlemen to turn in their minds, prefatory to their vote on the proposed motion, would be, whether the articles already voted by the House, were in themselves sufficient to justify an impeachment.

Mr. *Burke* declared, that he had not insinuated that Mr. Hastings had sold out any part of his property. The person to whom he had alluded, was sir Elijah Impey; but he begged to have it remembered, that he had barely stated to the House, that he had heard so: he was not bound, therefore, to prove the fact. With respect to the impeachment of Mr. Hastings, he certainly did not mean to abandon the articles that remained to be investigated, nor to rest the impeachment solely on the finding of the committee of inquiry, that there was matter of charge in the two articles already examined. The rest of the charges contained facts of a nature highly criminal, and he had little doubt but that the greater part of them would be established to the conviction of the committee: if, however, no one of the remaining articles should be determined to contain matter of charge, he should nevertheless think, that there was ample ground for impeachment in the two articles already decided. But what he had said, was, not that he should do either of the things already alluded to, but that if the House should be of opinion with him to proceed with the impeachment, that then he should lodge the charge with the House of Lords, accompanying it with a notice, that the Commons were preparing the articles.

Feb. 20. The order of the day being read, the House resolved itself into a committee of the whole House, to consider farther of the several articles of charge of high crimes and misdemeanors against Warren Hastings, esq.

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Mr. *Dundas* requested the hon. baronet (sir Gilbert Eliott) would state to the committee what serious charge was meant to be brought forward against sir Elijah Impey, before that gentleman should be called in and examined; as he could not conceive it consistent with the justice of the House to take the advantage of sir Elijah's evidence to convict himself. One of two things would be the consequence; the evidence against sir Elijah must not operate against himself, or he would be prevented, by a charge against him, from giving his evidence against Mr. Hastings in the House of Lords. He wished gentlemen, therefore, to consider, whether it would not be proper to decline receiving any farther evidence from sir Elijah.

Sir *Gilbert Eliott* was far from being prepared to give a direct opinion on what would or would not be the positive charges against sir Elijah Impey: they would not be confined to any particular object, but would embrace his conduct in general during his residence in India—his departing from his judicial character, and his sharing in most of the worst actions perpetrated in that country.

Mr. *Phipps* was of opinion, that the hon. baronet's intentions were sufficient reasons for objecting to the examination of sir Elijah: if he was examined, it would be impossible to bring his evidence against Mr. Hastings before the Lords; and the evidence of sir Elijah ought not to be taken when he was himself liable to an impeachment.

Mr. *Burke* contended, that if it was to be established as a rule that no person who might be afterwards impeached should give evidence relating to that on which he might be impeached, it would be impossible to gain any evidence. Mr. Hastings had destroyed all official information; no evidence could be gained there; it must, then, be procured from his confidential agents, of whom sir Elijah was one. He added, that upon this occasion, he must be regarded as certainly not the least insignificant party concerned, and therefore it was material for him, as prosecutor of Mr. Hastings, to lose none of the rights of prosecution: the prosecutor could not insist on the evidence criminating himself; nor was it to be supposed that sir Elijah would be led into any self-examination. That gentleman was not as ignorant as a poor rustic; he had filled important situations. He was private secretary to Mr. Hastings, and was possessed of the principal part of the correspondence relative to Farruckabad. If gentlemen contended against admitting sir Elijah's evidence, he certainly would take the sense of the committee upon it. Parliament examined the South-sea Directors, and afterwards impeached them.

Mr. *Pitt* was of the same opinion with Mr. Dundas, but had no objection to sir Elijah's being examined. He thought it would be proper for the chairman to give notice to sir Elijah, that it was probable he might be impeached, and that the circumstances on which he was to be examined might be connected with the charges against him.

Mr. *Burke* had no objection to this. He contended, that if a minister was impeached, it would not be thought improper to examine the Secretaries of State, though an impeachment might be lodged against them for their share in the business. He was certain that if an impeachment were lodged against the right hon. gentleman (Mr. Pitt), either for corruption in office, for peculation, or even for the French treaty, the Secretaries and his other colleagues might be called on to give their evidence, though they themselves might be afterwards impeached.

Mr. *Pitt* observed, that if such evidence was not suffered to be taken, it would disarm justice. He should be ashamed of any minister who held a contrary doctrine.

Mr. *Phipps* said, that whenever sir Elijah refused to give evidence, it would then be in fact evidence against himself. He thought public justice might go on without such severity. If sir Elijah was examined, he would not stay in the House, and would not look at any papers which had his evidence, as he would not be biassed by such evidence.

It was at length agreed that the chairman should inform sir Elijah Impey, "that a criminal prosecution might be instigated against him for extra-official, and other conduct, during his residence in India, and that the circumstances on which he was to be examined, might be connected with the charges exhibited against him." Sir Elijah Impey was then called, and the chairman having given him the above information, sir Elijah said, "I thank you, Sir; but being conscious of no guilt, and there being no part of my conduct which I wish to secrete, I have no objection to give the committee the fullest information in my power." Mr. Burke then proceeded in the examination.

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March 2. The House resolved into a committee of the whole House to consider farther of the several articles of charge of high crimes and misdemeanors against Warren Hastings, esq. Mr. St. John in the chair.

Mr. *Thomas Pelham* now rose, and observed, that he considered himself particularly called upon to take an active part in the business before the committee, having been a member of one of those committees, whose reports had furnished the House with proofs of misconduct in the East Indies, that prejudice itself could hardly have suggested; and having distantly and unworthily partaken of the credit that attended the investigation, by the honour of having his name inrolled with that of the right hon. gentleman who brought forward these charges, he was desirous of showing a readiness to participate any obloquy that might accompany the present prosecution. He well knew how odious the character of an accuser appeared to some men, and was aware how much he must suffer in their estimation, by endeavouring to persuade them to assume that character; but he trusted, that, in a British House of Commons, the accuser of a tyrant and oppressor would be considered in the character he should always be seen in, the active defender of injured innocence; and that as we were appointed the guardians of the liberties of this country, we should prove ourselves the formidable avengers of its injured honour. He considered this business of the utmost importance to our national character and honour, as well as to the preservation of our possessions in the East; he consequently felt the weight of the task he had undertaken, and how much he should stand in need of the indulgence of the committee. At an earlier stage in this business he might have been deterred from the attempt, considering who the person accused was; a governor-general, connected with people of the highest rank and consideration in this country, by the power he had long possessed of providing for their friends and dependants, and assisting them in making their fortunes. But the committee had shown to the world, by their late votes, that with them justice outweighed every personal consideration; and highly as he admired and respected the abilities of the hon. gentleman who moved the last charge, he could not believe it possible that even his unparalleled eloquence could make this House swerve from the rules of justice, whatever effect his matchless speech might have had in rousing in them a proper sense of their duty. He hoped, therefore, if he should be fortunate enough to be able to state to the committee, in a clear and intelligible manner, the facts and circumstances upon which this charge rested, that it would receive the sanction of the committee, and that the cause of the Nabob of Farruckabad would not suffer any prejudice on account of his want of eloquence, or any failure on his part.

He then stated, that the Nabob of Farruckabad was descended from an ancient and distinguished family in Hindostan. His father, Achmid Khan, had attached himself to the Company in their earliest wars, and fixed his residence at Farruckabad, a city of great wealth, and an important station as a frontier to the possessions of the Company; that he had been deprived of great part of his possessions at the close of his life by the Mahrattas; that the late Vizier recovered part of these possessions, and by several treaties guaranteed them to his son, the present Nabob; that the present Vizier had done the same; but neither the late nor present Vizier had ever fulfilled their agreement, and levied a tribute upon the remaining part of his possessions, which they claimed: upon the whole, that the servants of the Vizier had been guilty of great cruelty and oppression in the collection of this tribute; that the tribute was assigned to the Company in payment of part of the debt due from the Vizier to the Company; that in consequence the Nabob of Farruckabad made frequent complaints to the governor-general and council, from the year 1776 to 1780; that then Mr. Hastings recommended to the Board to send an English resident to protect the Nabob from the cruelties of the Vizier's servants, and to collect the tribute; that in 1781 he made a treaty with the Vizier at Chunar, engaging to withdraw the resident; however, he would not suffer the Vizier's servants to continue, and recommended a native of Farruckabad to manage the Nabob's affairs; that in 1782 he suffered the Vizier's servants to return; and in 1783 he again sent a resident.

In these several transactions he intended to accuse Mr. Hastings of a breach of faith with the Nabob in signing the treaty of Chunar, by which he withdrew the protection he had offered him in 1780, and to impute criminality to him for having

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received at the time of making this treaty a present of 100,000*l.* from the Vizier. He meant to accuse him of an immediate breach of this treaty, by causing the Vizier's servants to be recalled, and appointing a native of Farruckabad; he meant to impute criminality to him for suffering the Vizier's servants to supersede this native minister, upon the ground of the report circulated at Farruckabad, and which was denied by the Nabob, that this native minister had bribed Mr. Hastings to recommend him to the Nabob; and he meant to accuse him for appointing a resident in 1783, in direct violation of the Treaty of Chunar, attended with circumstances of the grossest duplicity; for even in this last measure, to which he obtained the consent and approbation of the Board, he totally defeated the object of it, and deprived the Nabob of Farruckabad of the effectual protection he pretended to afford him, by sending secret orders to Mr. Willis, the new resident, not to interfere in the management of the country, and making him subject to the recall of the Vizier.

He said, that the evidence he should offer in support of this charge was chiefly taken from the letters of Warren Hastings himself, that fertile source of information of East-Indian delinquency, and of materials for accusing the late governor-general. He then read the governor-general's minute of May 20, 1780, in which he recommends the appointment of a resident, from motives of justice, and a due regard to the Nabob of Farruckabad, to protect him from the oppressions of the Vizier, and to secure him against the knavery and corruption of his own servants, and as a means of securing to the Company the tribute which had been assigned to them.

He next read Mr. Hastings's remarks upon the Treaty of Chunar, in which he agrees to recall the resident. He proved, that the two facts mentioned by Mr. Hastings in these remarks were untrue; for that the resident's (Mr. Shee's) conduct appears no where to have been complained of, and that Mr. Hastings himself, so far from considering him guilty of any misconduct, not only never imputes it to him when he recalls him, but rewards him, first with a pension, and then with an office. The other fact, of the Nabob having desired his recall through the Vizier, no where appears, though letters from the Vizier are produced, in which the Vizier wishes that the resident may be recalled, in order that he might have the sole management of Farruckabad. He then argued upon Mr. Hastings's reasons for signing the Treaty of Chunar, compared with those assigned in his minute of May, 1780, for appointing a resident. He said, that it could never be a subject of delicacy and difficulty to continue a measure in 1781, that common justice had suggested in 1780; that a regard to the Nabob, and desire of protecting him from the oppressions of the Vizier, as well as from the knavery and corruption of his own servants, and the security of the Company's assignment, were the reasons for doing that very thing in 1780, which he did not dare to do in 1781. But, supposing that the recall of the resident was become necessary on account of any misbehaviour of Mr. Shee, and that Mr. Hastings really wished to leave the Nabob in the management of his own affairs, in what manner does Mr. Hastings secure this object of his wishes? He binds himself by treaty not to send a resident in future, and to recall the present; and trusts to a recommendation to the Vizier to follow his example; stipulates in a treaty for withdrawing the protection, and trusts to recommendations to the oppressor for future security against the exercise of oppression. But, granting even that a recommendation of Mr. Hastings would have the same effect with the Vizier as a treaty, and that the Vizier's servants would not be re-appointed, still the Nabob of Farruckabad remains exposed to the corruption of his own servants, and the Company's assignment is thereby much endangered. It is not in Mr. Hastings's minutes that the true reason for signing the Treaty will be found: the committee will recollect the evidence of sir Elijah Impey, who says, at the time of making this treaty, Mr. Hastings had failed in one great object; his credit depended upon the success of the other; his situation was such that the humanity of the chief justice induced him to undertake the office of a common amanuensis in the service of the governor-general; the sanction of the Vizier was wanted for greater and approaching designs; he was to be soothed and caressed; Farruckabad was a favourite object with him; and the ten lacks of rupees which he gave Mr. Hastings at the time of signing this treaty, dispelled all the alarms of the governor-general for the fate of the Nabob of Farruckabad; the

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present was the cause of all the delicacy and difficulty; and the looked-for treasures of the Princesses of Oude would be a sufficient indemnity to the Company for any failure at Farruckabad. Upon these grounds, said Mr. Pelham, I charge Mr. Hastings with a breach of faith with the Nabob, and criminality in accepting of a present from the person into whose hands he delivered him. If he took it for his own use, he is guilty of gross bribery; if he took it for the Company, he is criminal for bartering the national faith and honour for money.

Mr. Pelham then proceeded to show how early he endeavoured to break this treaty, and read several letters from Mr. Hastings to the Nabob, the Vizier, and Mr. Middleton, and the correspondence between Middleton and Impey. In the latter it appeared, that Mr. Hastings considered the appointment of a minister by the Vizier a breach of his orders; though the Vizier in his letter to Middleton, complaining of Mr. Hastings, says, that the express object of the treaty was to give him the uncontrolled management of Farruckabad. He then read Mr. Hastings's correspondence with the Nabob of Farruckabad, in which he first recommends Subgut Ulla Khan to him as the proper person to manage his affairs, and then orders his dismission, upon the report of his having said, that he paid money for his master's independence; and notwithstanding the Nabob's positive denial of the fact, Mr. Hastings withdrew his protection from the Nabob, and suffered the Vizier's servants to revive all their former oppressions and cruelties. He then produced Mr. Hastings's minute of 1783, accompanied by a letter from the Nabob, praying him to appoint a resident. Mr. Hastings states in his minute, that the implied orders of the Company induced him to take up the measure, though it appeared that, on the 16th of February, Mr. Hastings took the resolution of sending his private secretary, major Palmer, as resident, and the Directors' letter was dated the 14th of the same month in London. The Council agreed to the appointment of a resident, and Mr. Willes was accordingly sent.

Mr. Pelham then read Mr. Willes's letter to the Council, subsequent to his arrival at Farruckabad, giving an account of the miserable state of the country, and offering, as an apology for his inability, to render any service to the Nabob or the Company, that he had received private orders from Mr. Hastings when at Lucknow, not to interfere in the internal management of the Nabob's affairs, and was afterwards made subject to the recall of the Vizier. He said, that in this last transaction Mr. Hastings had not only been guilty of a breach of the Treaty of Chunar, but of the greatest duplicity to the Nabob of Farruckabad, by offering an ostensible protection, which he was privately withdrawing; of duplicity to his brethren in Council, by secretly counteracting the orders he publicly proposed to them, and to which they had assented; and of duplicity to Mr. Willes, who was sent with full powers from the Board, which Mr. Hastings in his own person virtually annulled. Upon full consideration, therefore, of his breach of faith with the Nabob in making the Treaty of Chunar; his criminality in accepting a present from the Vizier at the time of signing the treaty; his immediate breach of the treaty; his unjustifiable surrender of the Nabob to the oppressions of the Vizier, on account of a supposed report circulated by one of the ministers; the second breach of the Treaty of Chunar by sending Mr. Willes, with all the circumstances of duplicity attending that transaction, he had no difficulty in moving that Mr. Hastings be impeached. He said farther, that he wished not to be thought so uncandid as to have paid no attention to Mr. Hastings's defence; but, as it had been denied to be his upon a former occasion, he was unwilling to press any thing upon him which he disclaimed, and would not therefore point out the contradictions contained in it.

Major *Scott* contended, that the present from the Nabob of Oude, was received for the East-India Company; and justified the recall of the resident, and a variety of other matters, on the ground of state necessity. He described the origin of the tribute exacted by the Nabob Vizier from Muzuffer Jung. He adverted to the particulars of the charge of Farruckabad. In his reply to these, he endeavoured to show that Mr. Hastings had been obliged to adopt the conduct he had pursued, in order to recover the arrears of 125 lacks of rupees, due from the Nabob Vizier to the Company. He asked, had the four lacks and a half of rupees been remitted to the Company during Mr. Shee's residence at Farruckabad? Had there been even one lack of rupees paid? There had not been one. It was, therefore, deemed

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necessary to recall a resident who was continued there but to increase the impoverished state of the country. With respect to Mr. Hastings having received the present of ten lacks of rupees from the Nabob Vizier, it surely could not be imputed to him as a crime, when he had given the Company credit for the said sum. During his speech he read a letter from Mr. Francis to the Directors, which stated, that such was the situation of Farruckabad, that it was impossible they could even receive from that country the arrears that were due to them. But the event had proved Mr. Francis not to be a true prophet; for Mr. Hastings had obtained the whole amount of what was due to the Company at the time when Mr. Francis wrote this letter. Surely, therefore, Mr. Hastings was not guilty of a crime, in having effected what was deemed by the hon. gentleman impracticable! And as this was a sum so essential to the affairs and commerce of the Company, he could not see how any guilt could be alleged against Mr. Hastings.—With regard to the appointment of Mr. Willes, the hon. gentleman, who had read the letter, had omitted a most material part. Had he read this, it would have appeared that the Treaty of Chunar had not been broken by the appointment; for the appointment was not made without the consent of the Nabob Vizier. The words in the letter were, that he did not mean to appoint Mr. Willes as a resident at Farruckabad, without the consent of the Nabob, which he did not doubt but he should obtain; so that as the appointment was with the consent of those with whom the Treaty was made, it was impossible to deem such a resident there an infraction of the Treaty. As to the allegation of the impoverished state of the country, this was not to be attributed to Mr. Hastings. Indeed, it was not mentioned in the charge. The English could not have any concern in it: there had been no forces in the country: it was at least upwards of 1,000 miles from Calcutta; and with regard to our having impoverished the country, so far from any part of our army having been the cause, he believed he had been the farthest of any towards Farruckabad; and that was only to have passed the Ganges. Therefore, no crime could be alleged against Mr. Hastings, in consequence of the impoverished state of that country. He here entered into its description; by which it appeared that it was a considerable extent of country, which was always poor and unproductive. There was in it no settled government: it was a scene of continual contest among persons who were perpetually claiming different parts of it as their rightful possession. From this unsettled state arose its poverty and its misfortunes. So that the sufferings of Muzuffer Jung were more to be attributed to his local dependencies, than to any exactions of the English, or of the Nabob Vizier at their instigation. He strongly defended Mr. Hastings's conduct. From this conduct with respect to Farruckabad, the Company had recovered all the arrears due to them from Asoph ul Dowlah. He could not, therefore, see the least justice in charging Mr. Hastings with being guilty of a high crime and misdemeanor in having thus rendered the Company and the nation the most essential services.

Mr. *Dundas* remarked, that several observations had been made which he could not assent to in the extent to which gentlemen had endeavoured to press them. As to the subject of the present, which the right hon. gentleman had laid so much stress upon, he observed, that on that subject he ought to have looked farther than this country, and the principles established here on the question of bribery and corruption. What would in Europe evidently be a bribe, was, in the East Indies, only to be considered as a sort of ceremonial of intercourse, which uniformly obtained in all transactions whatsoever; and there was no instance in which any business was transacted there, which was not always accompanied with a present. Every circumstance of that nature should, then, be weighed according to the principles and manners of the country where the business was conducted, and in that view of it there was no corruption whatever on the part of Mr. Hastings, but only a compliance with the established custom of the country. With respect to the breach of the Treaty of Chunar, he by no means saw it in so criminal a light; the Treaty itself, or at least that part of it which was most the subject of discussion, the circumstance of not sending a resident to the Court of Farruckabad, was perfectly absurd; for it was contrary to every principle of policy for any state to enter into an agreement with any one Prince that it shall not, on any occasion whatsoever, send an envoy to the Court of another. The breach of that Treaty, on the part of the Company, was rendered

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absolutely necessary by the act of the Nabob of Oude himself in transferring the Tunca, which he was possessed of on the territories of Muzuffer Jung, to the government of Bengal; for that Tunca would have been useless if a resident manager had not been appointed to receive it. He was by no means an advocate for overloading every corner of India with British residents; but he looked upon it as absolutely necessary, where so great an interest as that of the Tunca on Farruckabad was vested in the Company, to have an agent to superintend it. Perhaps he was the more inclined to excuse the breach of the Treaty of Chunar from this circumstance; that he never liked that Treaty, and always regretted its having been made: his prejudice, therefore, against the Treaty, might naturally operate in reconciling him to the breach of it. It was not impossible but there might have been some desirable object in view in the making of the Treaty; and so it might have been justifiable to have made it, notwithstanding that it was evident that a necessity would occur of breaking it. If this was the cause, he should then admit that it was a bad way of doing a good thing; and so he should excuse it, particularly if the same good end could not have been obtained by more direct means. But, what this desirable object was, and how it happened to be only attainable by such indirect, circuitous, and objectionable means, he expected to have fully explained before he could bring himself to look upon the transaction as innocent, or excusable; and as yet, he had never heard any such explanation attempted. He should also expect to hear of some actual necessity having existed for the recall of Mr. Shee from Oude, seeing that Mr. Hastings knew that by such recall either the Nabob of Farruckabad must be sacrificed to the Nabob Vizier, or else be abandoned to the dangerous and destructive management of his own servants and family. Unless he could find a full answer to those two points, he should certainly feel himself indispensably bound to vote for the motion. In the course of his speech, Mr. Dundas ridiculed the habit which obtained of entering into the discussion of the antiquity of certain East India families; and observed that such researches were perfectly absurd, as the only way to judge of any action was to consider the person immediately affected by it, and not to make any references to his ancestry. He said, he could not but give a caution to the gentleman who had brought forward the charge, to reflect, whether it would be worth while to prosecute it to the other House, as it appeared not likely, if substantiated, to add much to Mr. Hastings's criminality or punishment, and would require a vast volume of evidence to prove it. This he only submitted to their discretion; for, if the question was put, he must vote for it, unless he should receive complete satisfaction on the two points which he had already stated.

Sir *James Johnstone* declared, that upon his conscience, and upon his stumps, which were almost gone, and would scarcely last him the short part of his life which remained, he thought it right to vote against Mr. Hastings, and for the present charge. It had been proved that Mr. Hastings had taken a bribe of 100,000*l.* The man, he said, who would take a bribe, must be a desperate villain.

Mr. *Francis* said, that so far from meaning to controvert the argument of the right hon. gentleman, he agreed with him in great part of it, and particularly in his conclusion. But he wished to confirm the right hon. gentleman where he seemed to doubt the force of his own reasoning. The right hon. gentleman had begun with saying, that although taking a present in Great Britain under certain circumstances, would be considered as a bribe, accepted for a corrupt purpose, yet in India there might be situations in which it would bear a very different construction. Did the right hon. gentleman, when he used that argument, recollect that the present in question was ten lacks of rupees, a present of the value of 100,000*l.*? Could such a present be given, or accepted, for any other purpose than a corrupt one? The presents usually given in India as ceremonials, or what were termed Nazirs, consisted in general of no more than a few rupees, perhaps to the value of two or three guineas, which, to be sure would not operate on gentlemen corruptly; but even such presents he had known to have been given corruptly; and when he said so, he spoke upon good grounds, for he had a thorough knowledge of the mode of distributing presents in India, to all amounts, and for all purposes [a laugh]. Observing this, Mr. Francis said, he believed, no gentleman in the Committee thought he had taken any presents corruptly. He certainly had not; but no

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man who knew any thing of India, could imagine that a present of 100,000*l.* could pass, under such extraordinary circumstances, without being liable to imputations of a very suspicious nature. He remarked, that an hon. major in the course of his speech had introduced some mention of the Treaty made between the Company and the late Sujah Dowlah, as if it were to be imputed to general Clavering, colonel Monson, and himself, as matter of blame, that they had declared that Treaty at an end, when Sujah Dowlah died. They had done it, and for this reason; because it was a personal treaty. It could be no other; for Sujah Dowlah was a Subadar, and a Subadar could have no successors. He illustrated his meaning by putting the hypothetical case, that a king of France was to make a treaty of any kind with a lord-lieutenant of Ireland; that treaty must be personal, and could not be denominated a treaty between the Most Christian King and the lord-lieutenant of Ireland, his heirs and successors, because they all knew that a lord-lieutenant held his office under the Crown, and possessed no right of inheritance to that office. Mr. Francis alluded to a transaction which had taken place the other night, when sir Elijah Impey was at the bar, and declared that he perfectly understood what was meant, and had no doubt but the question put to the witness, and which the witness had, with an affected delicacy, desired not to answer, was a preconcerted matter. He reminded the Committee, that he had called the witness back, and refused to accept any pretended civility upon such terms. This was a proof of the meanness to which those could descend, whom that House had heard praised for their magnanimity. Mr. Francis now took up the character of Mr. Shee, the British resident at Farruckabad, to rescue it from the insinuation Mr. Hastings had thrown on it; he also produced a letter from Mr. Shee, stating that he had at that time (in 1782) just left Mr. Hastings at the council board, where he had entered a minute, expressing in strong terms the highest opinion of his character.

Mr. *Burgess* declared, that the hon. gentleman had been mistaken in conceiving that the question which he had put to sir Elijah Impey had been put in consequence of any preconcerted plan. He had put it merely for information sake. He had never seen Mr. Hastings in his life, and was a stranger to sir Elijah.

Mr. *Vansittart* said, that as the affair of the present appeared to have made some impression on gentlemen's minds, it was necessary for him to state that Mr. Hastings never had a shilling of it, but that he wrote notice home to the Directors. Mr. V. entered into a defence of Mr. Hastings in other respects, and justified his conduct throughout the many transactions stated in the charge.

Mr. *Burke* declared, that the charge consisted of a number of complicated crimes; each of them, in his mind, of a most heinous nature, each serving to throw light upon and prove the other. He said it was peculiar to Mr. Hastings to do every thing in an indirect way, and to blend his most serious transactions with such a heap of farcical mummery, that there was scarcely an instance in which he had not carried his despotic powers to their highest extent, and manifested the most violent degree of oppression and tyranny; but that although the tragical event was sure to excite horror, the means by which it was effected had always something in it which provoked ridicule. An example of this was, no doubt, to be found in the whimsical scene, which must have presented itself to the beholder, could any person have been present at Chunar when Mr. Hastings was employed in juggling the Nabob Vizier to sign a Treaty, which Treaty he knew at the time there would be an absolute necessity to break soon afterwards, and with the conditions of which he never meant to comply. Mr. Burke here imagined Mr. Hastings, the Nabob of Oude, and Mr. Middleton, to be in the same room together, and describing Mr. Hastings as presenting one treaty to the Vizier, and when he was ready to sign it, suddenly drawing another treaty out of his pocket, and slipping it before the Nabob, telling him, either himself or by Mr. Middleton, that as he must have a very different treaty to show in Leadenhall-street, from that which they meant to act under, he begged he would sign that, but that he would comply with the conditions of the other; for though he had often broken his faith, and meant to do so again, yet that he might rest assured he would be honest to him. Mr. Burke urged some arguments to prove that the taking 100,000*l.* of a man in such known distress as the Nabob of Oude was at the moment when Mr. Hastings took it, and when he stood so deeply indebted to the

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Company, was corrupt and scandalous; and that nothing could be more wicked than the making a treaty, and pledging the faith of the Company thereto, when at the time the contracting party in their behalf knew that he should himself create the necessity of breaking it, and thus wantonly violate a solemn engagement. This was surely a most criminal act, and alone deserved to draw down the heavy arm of justice on the delinquent capable of such conduct. What had been said by the right hon. gentleman ought certainly to have its weight, because they could not, in a proceeding of so much importance, measure their steps with too much prudence. "Nullum numen abest, si sit prudentia." Let it, however, be remembered, that they were not yet arrived at the day, when it would be necessary to determine which of the articles it would, upon principles of prudence and expediency, be fit to go up with to the House of Lords.

Sir *James Johnstone* rose again, and begged to state the reason why he should vote for the charge. A sum of 100,000*l.* had been taken of the Nabob by Mr. Hastings, and it was said that he had afterwards written home to the Directors, and told them they might have it. Was that any reason why Mr. Hastings should not be tried? Suppose he had robbed a man on Westminster-bridge, and afterwards threw the money into the river; or suppose he was to squeeze 100,000*l.* out of a rich banker's shop, and go give it to a parcel of poor wretches, ought not he to be taken up, to be tried, and, if convicted, hanged for it?

Lord *Mulgrave* argued against the light in which the several points of the present charge had been placed by those who had spoken before. He justified the Nabob of Oude, for wishing Mr. Shee to be recalled. The Vizier well knew that the moment a British resident set his foot in the dominions of an Indian Prince, he instantly drew to himself all the power belonging to the territory, and became, as it were, its master. Mr. Shee had been sent up to Farruckabad as an agent for the Nabob of Oude, and he was obliged to go to the Vizier for his powers, when he demanded a Pergunnah; but the Vizier would not grant it, but said, "No, go upon your tunca, or mortgage, and collect that, it is all you have a right to." This, therefore, showed that Mr. Shee went to Farruckabad merely as a bailiff's follower, carrying the writ of execution into a debtor's house; and yet they might see a letter from Mr. Shee, written with all the pomp and parade of a general officer, and stating that he had taken a fort by sap! A plain proof how much reason there was for the Nabob Vizier to wish to have no more British residents in his provinces. We had reason to be thankful that India was at such distance from us; for it was plain that in order to manage the difficult government of that country, some things were unavoidable, at which an Englishman, who lived under a constitution so extremely different, could not look with patience; but that very circumstance proved, that we were not fit judges of the conduct of a man who had acted upon the whole so gloriously for his country as Mr. Hastings had done, and who, had his scene of action been placed nearer our view, would, he was persuaded, have been more universally admired.

Mr. *Francis* explained, that the fort which Mr. Shee had taken, as the noble lord said, by sap, was merely a mud fort, in which a rebellious zemindar had secreted himself; and when Mr. Shee took him, there was no British force in that part of the country: he had only a small party of the Nabob of Farruckabad's rabble. Mr. Francis said, that the imbecility of Muzuffer Jung was occasioned by his intoxicating himself with opium and strong liquors, in order to deaden the sense of the misery Mr. Hastings had brought on him.

Mr. *Dempster* said, that it was not merely Muzuffer Jung who swallowed large quantities of opium, and intoxicated himself with liquors and herbs which had a similar effect; every prince in India did the same in order to lose the sense of the poverty and distress the British government had brought on them, and the devastation that British rapine had occasioned in their territories. But this was no new matter; they had taken opium, and made themselves drunk with liquors and herbs long before Mr. Hastings was in India, and they did the same now Mr. Hastings was in England. It was the sad resource they had been driven to ever since we set foot in India to deprive them of their personal rights and riches. A right hon. gentleman (Mr. Dundas) declared, that if two doubts which he entertained could be solved satisfactorily, he would vote against the charge. He would endeavour to solve those doubts. He then stated

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that the Nabob of Oude had stipulated in the Treaty of Chunar, that Mr. Shee should be recalled from Farruckabad, and therefore Mr. Hastings was bound to comply with the conditions of the Treaty.

Mr. *Dundas* re-stated his principal doubt, which was, that Mr. Hastings, after having engaged to protect the Nabob of Farruckabad, had reduced the Nabob to this alternative, either to put up with the oppression of the Nabob of Oude, or to be pillaged by his own subjects and servants. He had not heard one syllable to remove those doubts; and therefore, however he might in the early stage of the debate, have entertained doubts of the culpability of Mr. Hastings, he must now vote for the motion.

Major *Scott* owned that the objection had not struck him, and therefore he was not prepared to meet it.

Lord *Hood*.—I cannot content myself with giving a silent vote upon the present occasion, and must beg the indulgence of the committee to express my humble sentiments respecting the subject of this night's debate. I never saw Mr. Hastings but once, and that for three minutes only, soon after his return to England, nor have I ever had any sort of intercourse or connexion with him, and he is so much a stranger to me, that I do not believe I should recollect his person, were I accidentally to meet him any were; but I confess, Sir, I admire and respect his character, for having so invariably made all personal considerations give way to his regard for the welfare of his country: and I am free also to confess, that neither the several very eloquent speeches I have heard, particularly the one so forcibly delivered by the honourable member who opened the debate, nor what has been delivered at the bar of this House, have altered my opinion of him; being perfectly well aware, how arduous Mr. Hastings's situation was, surrounded on all sides by such pressing difficulties, that almost any other man must have sunk under; but, by his great fortitude, persevering zeal, and uncommon abilities, he rose superior to them all, and proved himself most clearly the preserver of India to this country. I have, Sir, to the best of my poor judgment, maturely weighed and considered Mr. Hastings's errors and supposed delinquencies; and having impartially balanced against them his eminent services and real merit, I cannot hesitate one moment how to give my vote; and if the representatives of the nation in parliament will not condescend to adopt that mode of judging men in high trust and command upon foreign service in war, unfortunate indeed must be their situations; for I will be bold to say, there never was a man in command abroad, in time of war, who has not found it his duty to do, as an officer, for the good of the public service committed to him, what he could not reconcile to the strict rules of equity and justice, or to his own feelings, as a man acting in a private capacity. Advanced as I am in years, there is scarcely a possibility of my ever being in foreign command again: but I feel for those who are to come after me; and, having been in that situation, what I take the liberty of saying arises from experience. When I had the honour, Sir, of being at the head of the naval force of this country in the West Indies, his Majesty's fleet under my command, consisting of 22 sail of the line, had no bread to eat for a month, and, by much the greater part of that time, a far superior force of the enemy appeared in sight daily; to supply the want of that very essential article I was obliged to have recourse to yams, (a root of the potato kind) as a succedaneum for bread; and it afforded me one of the most heartfelt gratifications of my life, that under that great difficulty not a murmur was ever heard from any man I had the honour to command: such was the confidence the fleet had in me, and such the conviction, that I was never backward in showing all possible attention to it. To procure the relief the fleet stood so much in need of, from the want of bread, I was compelled to use the arm of power, and to direct every small vessel to be seized that could be got at, to send to the different adjacent islands for yams. Suppose, Sir, those vessels, so forcibly seized upon, contrary to the inclinations and strong remonstrances of those to whom they belonged, had been lost or taken by the enemy, what must have been my situation, if the Government of this country had been backward in standing between me and damages? I must have perished in gaol: as it was, Sir, I was threatened with numberless prosecutions, because the naval officer did not fully satisfy the demands of their owners. I do, therefore, most earnestly intreat the committee deliberately to consider not only the perilous situation of the late governor-general, but the valuable and extensive territory committed

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to his care; and I beg to submit to the cool judgment, the candour, the good sense of the committee, whether, what is the hard, and, in my opinion, the undeserved lot of Mr. Hastings, may not in a future war be drawn into precedent against some distinguished and highly meritorious general or admiral, who has rendered essential services to his country, as the commander in chief of an army or a fleet; and whether it may not lead some who may then happen to be members of this House, to investigate the conduct of such admiral or general, and, upon finding some part of it exceptionable, to arraign him at the bar of this House as a delinquent; not, perhaps, so much from enmity to the officer, or from any regard to justice, but, through him, to worry a minister, and to protract the public business of the nation, in order afterwards to be furnished with a plea for a charge against him for having done no business at all. Under the circumstances I have taken the liberty to state, and which the times may render highly probable, every man entrusted with foreign command in time of war must in future serve with a halter about his neck; for, to an officer of nice feelings of honour, conscious of having discharged his duty faithfully, it must be matter of indifference whether his life or his well-earned fame is taken away. I hope and trust I shall not be understood to entertain an idea that every officer ought not to be strictly amenable for the whole of his conduct; all I contend for is, that when any part is arraigned, due regard should be had to the motive that occasioned such part: if it proceeded from selfish considerations, no punishment can be too severe; but if from zeal to the public service, in that case no blame can justly fall upon him. Judging in the manner I do of Mr. Hastings, by balancing his great services against his errors, I am perfectly free to say that I cannot think him deserving of public censure.

Mr. *Pitt* said, that he should have rested content with giving a silent vote on the question, so evident to his mind were the grounds on which that vote was supported, were it not that he felt himself called upon to say something in answer to what fell from the noble lord. The high respect he entertained for his lordship, rendered him more particularly anxious to give an immediate answer to his arguments, lest, coming from the quarter they did, and in the manner and circumstances attending them, they should, from the uncommon weight of the noble lord's authority, more especially on such a subject, be apt to mislead and blind the judgment of the committee. The noble lord had argued in favour of those who, being entrusted with the great interests of their country, were sometimes, from the difficulty of their situation, reduced to the necessity either of sacrificing those interests, or of violating the direct rules of private justice. Such situations were likely to occur, and were certainly much to be lamented; and it was natural for the noble lord to resort to a supposition of such a situation in excuse of Mr. Hastings, conscious as he was that in the course of his own services he had never suffered such a necessity to operate on him, from any other motives than those of the public welfare, nor ever suffered it to proceed farther than that consideration rendered indispensable. He admitted, that in the case of every servant of the public to whom mighty and momentous concerns were entrusted, it was but just that when a complaint was made, the grounds of that complaint ought to be weighed with the situation in which he stood; if he suffered the necessities of his service to carry him no farther than was absolutely proper, and endeavoured, though it could not be done in its full extent, to reconcile his duty to his country with his duty to individuals, he had then the double merit of discretion as well as zeal; nay, even if in his exertions for the public he suffered himself to go beyond the line of strict and urgent necessity, provided it was evident that his intentions were fair and upright—then, God forbid that he or any man should deny him his due merit, or say, that the abundance of his zeal ought not to be allowed to make ample atonement for the error of his judgment! In such situations as these the noble lord, in his long course of services, must have been; and he was convinced, that his conduct under them had always proved such as to reconcile, as far as possible, his political and moral duties. But, did the conduct of Mr. Hastings, in that part of it now before the House, correspond with such principles? Was the crime that day alleged against him justified by necessity, or was it of such a size and complexion as any existing necessity could justify? Where a departure was made from justice and right, it was not sufficient to say that such a step was necessary; it was incumbent on the party to prove the

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necessity, and the consequences likely to attend a too rigid observance of strict justice and propriety, that a comparison might be drawn between the object to be gained and the sacrifice to be made, and a judgment of censure or approbation founded on the result of such comparison. He should not take upon him, in the present case, to determine how far any necessity could justify the crime then under discussion; that would be the province of those who were to apportion the punishment; it was sufficient for that House to see the crime substantiated, in order to their becoming accusers. But in this instance there was no state necessity attempted to be shown, and therefore there was no ground whatsoever for those who saw a criminal tendency in the transaction to refuse their consent to the motion.

Besides this topic of the necessities of his situation, the noble lord had resorted to another in favour of Mr. Hastings, which was his general merits in the course of his service. There had been a period, he confessed, in which such an argument might have been urged with some force, but that period was now passed. If at the commencement of the inquiry it had been urged in favour of Mr. Hastings, that though his conduct in some parts of his administration might be faulty, yet those faults were fully counterbalanced by the general tenour of his conduct, and the meritorious services he had performed; in that case, the House would have had to have weighed his crimes against his virtues, and to have considered how far his services were to be regarded as a balance against his delinquencies: but such a consideration could not, with any propriety, take place, after the inquiry had once been instituted; the committee were then called upon to determine, not upon a general view of facts—the general merits or demerits of the person accused—but on a particular investigation of a particular transaction, of the criminality or innocence of that single transaction. Mr. Hastings had thought it advisable to disclaim all benefit which he might have expected from a consideration of his services: he had boldly declared, "that in inquiring into the charges against him he desired no set-off might be made on the score of his services; for that he was persuaded, instead of the censure, he would be found to be intitled to the approbation of that House, even upon the very facts which were made the foundation of those charges, as soon as they should come to be properly understood and investigated." After such a proceeding on the part of Mr. Hastings, it would have been highly unjust to have departed from the line in which he chose to have his conduct considered, and to have thrown such a shield between him and public inquiry; nor, after having proceeded so far, could the House, consistently with its own honour, interpose to cover him with a shield. Still he admitted there was yet a stage, in which the merits of Mr. Hastings might and ought to be weighed against his failings; and this was, when (in case of conviction of the charges laid against him) he came to receive sentence. Undoubtedly, should it before that period have been made to appear (as had been so often alleged in his favour), that there had ever been a time when India would have been lost to this country, but for his exertions and abilities, such a consideration must have a powerful effect on the minds of those who were to apportion the punishment. With respect to the charge then under discussion, it had been already so ably handled, that he should not take up the time of the committee by enlarging upon it: he would only say, that Mr. Hastings from his own words clearly convicted himself of criminality. He then read a part of Mr. Hastings' correspondence; where, in speaking of the recall of Mr. Shee from Farruckabad, Mr. Hastings acknowledged, "that by so doing he must give up Nabob Muzuffer Jung to the oppression of the Vizier," so that he could not justify himself for such a step by any plea of wanting sufficient warning of the consequence, having evidently foreseen it; nor had there been any grounds of necessity alleged to palliate the measure. But, besides this letting loose the Vizier on the Nabob of Farruckabad, the consequence of which he knew would be the ruin and oppression of that unfortunate prince, and that without any necessity, what could excuse his acceptance of a present of such magnitude as that which he had received from the Nabob of Oude? Could such a transaction be excused by any degree of necessity? Was there a fleet in want of her necessary supplies? Was any army waiting for subsistence? Or did any one branch of the public service render so extraordinary a resource requisite? No; it could be justified by no one necessity; it could be accounted for by nothing but corruption. But what

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he had chiefly risen for was, to interpose between the high authority of the noble lord and the feelings of the House, lest they might be led by his arguments to confound the cases; that of a man struggling against a violent necessity, and at length obliged to give way to the exigency of the public service and deviate into a necessary injustice—and that of a person wantonly committing acts of tyranny and oppression, for which not even a pretence of public service had been alleged. He was by no means apprehensive that this example of the House of Commons taking an active part in bringing those who had served the state, in the most exalted situations, to justice, would be attended with any bad consequence to the public service; but on the contrary, besides that it was a duty which they owed both to their own and the national character, he looked upon it as the best method of insuring the most scrupulous and dutiful conduct of our several commanders, when they were taught that the House would not disgrace themselves by screening a public delinquent, how high soever might have been his rank and situation, how brilliant his abilities, or how eminent his services: they would be cautious when they knew that any deviation from the strict rules of integrity would be judged only by the nuture of the necessity which occasioned it; and that, although no merits would be considered as an excuse for wilful and corrupt misconduct, yet that even a necessary dereliction of principle must only be excusable by uniform and meritorious exertions. He begged the House not to suffer the inference of the noble lord from his own principles and conduct, to mislead them in judging of that conduct and of those principles which gave rise to the present charge. The noble lord, feeling the unimpeachable integrity of his own motives, was willing to impute the same sentiments, where, he much feared, they had not existed.

The question was put; the committee divided: Ayes, 112: Noes, 50: Majority, 62.

March 7. Mr. *Burke* having begged leave to fix the attention of the House upon their present situation with respect to the prosecution in which they were engaged, observed, that in consequence of the rules prescribed many years since by the Court of Directors, the servants of the Company were obliged to send home copies of all their various correspondence, as well with each other as with the natives, on the business of the Company, in order not only that the Directors at home might be fully masters of all which passed in India, affecting their interests, but also that proofs of the conduct of their servants there might be lodged here at the India House, as a body of evidence to convict them of inconsistency, negligence, or disobedience, should their conduct be inconsistent, or negligent, or disobedient, as the case might happen. This was undoubtedly a necessary and wise precaution, yet it was more or less useful as the rule was rigidly adhered to. In the case of Mr. Hastings, the most glaring instances of disobedience of this rule had occurred. Whenever the late governor-general thought proper, he mutilated, garbled, or suppressed his correspondence; and one of the great difficulties of carrying on the prosecution against that gentleman arose from this circumstance, a circumstance involving in itself a charge of very considerable weight and importance. Another difficulty originated from their ignorance what papers to call for. Mr. Burke, instancing the late charge, said, that he had called for the Farruckabad papers, and he thought that all of them had been presented; but a member of that House (major Scott) had afterwards called for others, and had thereby furnished the House with the Persian correspondence, which proved to be material. Mr. Burke observed, that the attorney of Mr. Hastings was the attorney of the India Company, in defence of whose rights, and for the punishment of whose servants that House was now carrying on a prosecution. He begged leave to point out the manifest advantage which this circumstance gave Mr. Hastings over the House; for while they were groping in the dark, and guessing at what papers they ought to call for, Mr. Hastings's attorney, who had daily access to all the Company's papers, might lay his hand on any of them, and come to the bar of the House of Lords, and there produce some paper or other, to overturn the whole of the evidence which they had been able to come at, and assist Mr. Hastings to laugh at the prosecution. It appeared, that a correspondence was kept back, which would show the remonstrances of the Nabob of Oude against any of these measures alleged to be taken at his express suggestion; and what was more, there

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was also a suppression of the whole of the Persian correspondence, which, with respect to this point, was undoubtedly very material. As a proof of the very incorrect and suspicious manner in which these papers were disposed of, Mr. Burke instanced the circumstance of many of them being in the possession of the chief justice, sir Elijah Impey, instead of Mr. Middleton, the resident, to whose department they most properly belonged. The House, then, would perceive the extreme inconvenience under which the gentlemen laboured who were engaged in the prosecution. They were obliged to grope their way and guess at those papers, which might prove elucidatory of the subject. Mr. Burke submitted these matters to the consideration of the House, and concluded with moving a string of motions for papers, which were granted.

March 15. The order of the day being read, the House resolved itself into a committee of the whole House, to consider farther of the several articles of charge of high crimes and misdemeanors against Warren Hastings, esq., late governor-general of Bengal. Mr. St. John having taken the chair,

Sir *James Erskine* rose and said, that previous to the opening of the article of charge against Mr. Hastings, on the subject of Contracts, he must beg leave to premise to the committee, that the matters which he should take the liberty of submitting to their most serious consideration would probably prove dry and unentertaining; yet he hoped that their intrinsic importance would palliate that defect, and entitle them to a full and deliberate investigation. He had not the task, assigned to persons of so much greater ability than himself, to paint the condition of desolated provinces, of princes driven into exile, or abandoned to the tyranny of others; of princesses stript of their possessions, and oppressed by that government which owed them protection: but it was his object to describe the mischiefs of an internal government, of a dissipation of revenue, of a breach of orders, and of the grossest corruption. It was reserved for him to explain how this bad management of affairs produced those very distresses, the remedying of which was pleaded as the cause and the excuse for all the enormities, of which the person now accused had been before convicted.

Adverting to the seventh article of charge, sir James Erskine now mentioned the contract given to Ernest Alexander Johnson, for providing bullocks for the use of the army. The Court of Directors, he said, had laid down as a fundamental regulation, that all contracts should be publicly advertised, and the most reasonable terms accepted; that these contracts should be given from year to year; and that at the expiration of every year advertisements should be issued for new proposals. But in direct disobedience of these orders, Mr. Johnson had, in 1777, the contract given to him for three years, and so far from being concluded on the most reasonable terms, the expenses were increased to an enormous amount. Thus, seven drivers were allowed to every twelve bullocks; and though Mr. Hastings pleaded the requisition of sir Eyre Coote for the augmentation, yet the number of bullocks charged for were 2,626 more than he demanded; and the difference between the expenditure on that and former contracts no less than 62,400*l.* This increase of expense to the Company was made principally by an accumulation of salary to the contractor to the amount of 46,800*l.* per annum. And this was justified by Mr. Hastings on the authority of a late member of that House, who was now no more, (sir George Wombwell). This gentleman had declared, that the public service was injured by too narrow a spirit of treating with contractors; but this was poor authority in such a case, for it could not be expected, that so great a contractor as he had been, would do otherwise than approve a rich contract. In addition to the 46,800*l.* which he had just before stated as the increase of annual emolument to Mr. Alexander Johnson, Mr. Croftes, who was in partnership with him, had the grant of a victualling contract which was worth 3,200*l.*, and which made the whole amount an additional douceur of 50,000*l.* per annum. In October this money had been squeezed from Cheit Sing; and Mr. Hastings, who assigned for the necessity of that extortion, the distresses of the Company, found in April no better method of relieving those distresses, than by applying the money to the enriching of a person, who, as he meant afterwards to prove, was the agent of his corrupt practices, and the confidant of transactions which would not bear the light.

The next article of charge on this subject, was a contract granted to George

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Templer for three, and afterwards extended to five years, in defiance of orders, which were said to be plain and unequivocal. This was not only made for a longer term than the rule laid down by the Directors specified, but with another proposal actually before the Board, nearly 30*l.* per cent. lower. By this contract, which was for feeding the elephants of the army, the Company were considerable losers.

Sir James now animadverted upon the agency given to Mr. Belli. This was for supplying the garrison at Fort William with military stores, and was granted at 30*l.* per cent. allowance on the prime cost of the stores. Three merchants had been consulted at Calcutta, respecting what allowance might be sufficient; and they had unanimously reported it as their opinion, that 20*l.* per cent. would be equivalent to the service, thus including twelve for wastage, five for his trouble, and three for servants and coolies. But Mr. Hastings had declared that a loss would accrue of 45*l.* per cent., and therefore that 20*l.* would not be sufficient, but that he should allow him 30*l.*; and thus it was that for stores purchased with money advanced by the Company, this agent was to have 10 per cent. more than was declared sufficient by a committee of merchants. Mr. Hastings had said, that he preferred an agency to a contract, because if it were to be performed by contract, it must then be advertised, and it would become a matter of public notoriety what provision was made for the defence of the fort; yet, in defiance of this principle, he in two years after converted it into a contract, without advertising for proposals, and fixed it for the term of five years; Mr. Belli having remonstrated that the indefinite terms of his agency had proved a loss to him, notwithstanding that he had drawn 10,000*l.* out of 35,000*l.* expended, besides the difference between the wholesale and retail price, which might amount to between two and three thousand more. Among other instances of profusion in this contract, he stated, that out of 103 rupees expended on account of the Company, 99 were charged for agency, wastage, and other contingencies. He next considered the application of this expenditure; and maintained, that a supply of warlike stores of a perishable nature at Fort William was much of the same use, as it would be at the Tower of London. He was apprehensive, that if those scandalous and enormous transactions were suffered to pass without censure, it might be erected into a precedent, which would warrant the placing of navy victuallers and agents in every sea-port throughout the kingdom. It was manifestly a job of the most corrupt nature; for what could be a stronger instance of corruption, than lavishing the revenues of the Company on one, with whom Mr. Hastings had so intimate a connexion? He could not surely plead his poverty, which had been spoken of in a manner calculated to excite the ridicule of the House, as an excuse for all these deviations from the disinterested conduct which became a governor. His disinterestedness had indeed been boasted of; but he feared it was like that of father Dominic; and that when a gift, from its magnitude, could not be any longer concealed, it would be found, though he had not openly taken the bribe, yet that he had some snug pocket or bag, into which it might be slipped without difficulty. In his present state of poverty, he might be compared to the Grand Almoner of India, begging charitable donations from all the native princes, to fill the coffers of his masters; and, like other almoners, bringing disgrace on his master.

The next contract which he should beg leave to submit to the consideration of the Committee, was one concluded in 1777, for an armed vessel to be maintained for the pilotage of Chittigong river, and for the defence of the coast: this service could not be executed without the greatest detriment, and perhaps the total ruin of the contractor; and therefore he was placed in a situation to be tempted by motives of private interest to neglect his duty. The forming the defence of a river was, he contended, wholly unprecedented, and calculated only to enrich the contractor at the expense of the India Company. Mr. Hastings had, in his defence on this charge, urged that the contract was made justly and economically: now this was precisely what was most to be dreaded; that the economy of the contractor should prevent him from discharging the service which he had undertaken to perform.

Sir James now proceeded to a review of the contract granted to the surgeon-general, which, he said, was made in direct opposition not only to the principle with respect to the duration of contracts, but also to a particular order of the Court of Directors. To make a surgeon a contrac-

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tor, and that for the medicines and diet which he was to provide for the patients under his hands—to farm out the care of men's lives was, surely an unprecedented and a most dangerous abuse, besides being an infringement of the positive orders given by the Directors; but these were utterly despised by Mr. Hastings: he remained in his government, unawed by any apprehensions of future inquiry, 'damnatus iniquo judicio,' and appealing from the mandates of his employers to the superior authority of his own discretion.

The next article was the Poolbundy contract, granted to Archibald Fraser, esq. in 1778, for the repairs of the pools and banks in the province of Burdwan for two years, at the rate of 120,000 sicca rupees for the first year, and 80,000 for the second year: this, besides the irregularity which it had in common with the other contracts, of being made at first for two years, and afterwards extended for three more, in opposition to the regulation of the Directors, was clogged with the farther stipulation, that Mr. Fraser was permitted to make dobunds or special repairs at the charge of the Company; these dobunds, he understood, were banks placed behind the old ones, as a farther reinforcement in case of weakness. Now he submitted to the Committee, whether this permission of making dobunds at discretion, and charging the government with the expense, would not be a temptation to a man of an interested turn of mind to let the old banks want repair, that he might derive advantage from the making of new ones? Here was a double prospect of advantage, which every man was not capable of resisting. This very service, for which such large emoluments were granted to Mr. Fraser, had been before executed for 25,000 rupees per annum by the Rajah of the district: but the additions to Mr. Fraser's contract it was difficult to account for. He was the near relation of sir Elijah Impey; the spotless gentleman who dispatched affidavits to England for the innocent purpose of clearing himself from the stigma of taking a mercenary share in the contract holden by his close ally, Mr. Fraser: probably these affidavits were the first efforts of sir Elijah's muse; his pastoral essays; his songs *in ripas et flumina*, previously to his rushing forward into the field of epic attestations, and singing the *prælia et reges;* the wars in Benares, and the rebellion in Oude! Sir Elijah indeed wrote many letters, and sent frequent instructions to his relation on this subject; and these assuredly were far from being unnecessary; for, having declared Mr. Fraser unfit to fill the office of a coroner, he had devoted him to the office of an engineer.—Expatiating next upon the nature of Mr. Auriol's agency for the supply of Fort St. George, Bombay, and St. Helena, with rice and other articles, sir James observed, that a lucrative bargain was granted to this gentleman by the governor-general on these particulars at a time when the Company were in the utmost distress for money, and every department in arrear. By the terms of it he was allowed 15 per cent. on the whole of his disbursements, and therefore became interested to make them as large as possible. The consequence was, that at Bombay the presidency complained of being charged with nine rupees a bag for rice, at a time when they could themselves have contracted for its delivery at five rupees and three sixteenths per bag; and that even at Madras, where the distress was greatest, those who had private supplies, got it at 19 per cent. less than that supplied from the agent's stores. This lucrative bargain, at the expense of an impoverished public, was said to be granted in consequence of his long and faithful services. But was this a method to reward a man for his services, by an agency, which in one year, his commission being charged, not only on the prime cost of the rice, but on the freight and all other particulars, would amount to 26,800*l.*; or at least, as Mr. Auriol himself acknowledged, to more than 18,000*l.*? But of these expenditures it appeared, by the papers which were produced, that no vouchers were required to be given, but upon honour; and he did not wonder, that on such terms Mr. Auriol offered to supply the rest of the Company's settlements in India. The passing of accounts upon honour was peculiar to India; as indeed honour there was of a peculiar nature; it dreaded the production of proof, had a great abhorrence to being confronted with truth, and shrank, like the sensitive plant, from the touch of curiosity.

Sir James now proceeded to a consideration of the revenues and civil establishments: the civil establishment alone, exclusive of all the military expenses, had increased from 1776 to 1785, the period of the government of Mr. Hastings, no less than 633,000*l.* per annum; nor was

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the want of wisdom in his arrangements inferior to that of economy: the president of the Board of Revenue had only 10,000*l.*, while an inferior member had 18,000*l.* a year. Mr. Anderson, who was first member of the Board of Revenue erected by Mr. Hastings, had his salary without being obliged to do any duties of the office; but was appointed ambassador to Madagee Scindia, with an increase to his salary of 4,280*l.* Indeed, the salaries and the duties were generally distinct, and he could consider this appointment of Mr. Anderson in no other light than he would the nomination of one of our ministers to a foreign embassy, at the same time he was to have the salary and emoluments attached to the office of the first Lord of the Treasury.

Sir James next investigated the augmentation of sir Eyre Coote's salary; and to this he requested the serious attention of the committee, as the most flagrant instance of the contempt of authority and violation of orders that any man commissioned to act for others could be capable of. The Court of Directors had given the most positive injunctions, that the salary of the commander-in-chief should not exceed 6,000*l.* per annum; notwithstanding which Mr. Hastings, by his own authority, and contrary to the intention of his employers, made an addition to it of 18,000*l.* a year, besides the 10,000*l.* which were his due as a member of the supreme council. No sooner had the Court of Directors heard of this extraordinary allowance, than they wrote to reprimand Mr. Hastings for his disobedience, and to order, in the most peremptory manner, that it should immediately be discontinued. Mr. Hastings paid no attention to this second intimation of the Directors, which produced a third order; and this third was equally disregarded with the two former: all that Mr. Hastings did, was, to charge the extraordinary allowance he thought proper to grant to sir Eyre Coote to the Nabob Vizier of Oude, by which he added an infraction of treaties, and an illegal extortion from a prince in alliance with the Company, to his disobedience of orders. As to the defence made by Mr. Hastings on this head, it was an aggravation of the charge; it was a wretched subterfuge to plead that he could not bear the inhuman thought of taking from sir Eyre Coote his salary, when he was reduced to the greatest imbecility from the hardships which he had suffered in the service; for the commander-in-chief had remarked concerning himself, that "he had one foot in the grave, and the other on the side of it." It was a libel on the memory of that gallant officer to insinuate, as he had done, that he would not have marched into the Carnatic, and discharged his duty to the Company cheerfully, without that great augmentation of his income. His profusion also, and his arbitrary assumption of authority, were no less conspicuous in the continuation of the allowance of 13,000*l.* per ann. to general Stibbert, after he was superseded in his command by sir Eyre Coote's arrival: that allowance being granted to him only while he had the command of the army.

Sir James now took up the last article of the charges in its relation to the opium contract; this was granted, like others, in opposition to the fundamental rules of the Government. Mr. Hastings gave the contract in 1777 to John Mackenzie for three years, without advertising for proposals, and contrary to the orders of the Court of Directors, that the monopoly of that article should be left to the Board of Trade. This transaction was condemned by the Directors, though a clause was inserted, by which it was left open to the Directors to annul the contract at the expiration of the first or second year: Mr. Hastings entered into a justification of what he thought might be speciously defended, and the rest he wholly omitted. Thus, he acknowledged having granted the contract to Mr. Mackenzie, but contended that it was not, and could not be, for any corrupt end: that gentleman, he had urged, was not among the number of his friends, and therefore it could not be his intention to serve him at the expense of the Company; but perhaps he might be permitted to hint to Mr. Hastings, that it may as well suit the purposes of corruption to buy off an enemy as to engage a friend.—He next entered into a discussion of Mr. Hastings' defence on the opium contract granted to Mr. Sullivan: he argued, that if the other was censurable, this was infinitely more so: the circumstances in both were not the same; as in the latter instance, the contract was granted for a longer term without any proposals whatever in writing, and without the same reservation in favour of the Directors. Sir James went minutely into a view of all the circumstances of aggravation in this last proceeding; and parti-

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cularly instanced the sale of it for 52,000*l.* as a proof that it was granted on the most corrupt and venal principle.

At length, recapitulating all his former ground of argument, and dwelling upon the magnitude and importance of the charge, which called for the most serious interposition of Government, he concluded by alleging, that it would not be imagined on this occasion, that the merits of the governor-general were such as should be pleaded in extenuation, or in direct opposition to the charge. He trusted that he had said enough to prove the contrary. It could not indeed be denied, that some of those periods in which the contracts had been made, were times of difficulty and embarrassment; but those distresses and embarrassments were of his own creating. To excuse a criminal for extricating himself out of difficulties he was led into by profligacy and corruption, was a principle in which a minister of this country could never be justified, and which could not be applied with advantage in the present business. He went over the different estimates of the losses sustained by the public in consequence of Mr. Hastings's profusion, which he stated, for a period of years, to amount to 590,000*l.* in the extravagance of contracts, and an annual loss of 600,000*l.* in the increase on the establishment. He begged the committee earnestly to consider the dangerous designs with which he had so lavished the money of the Company, whilst he was increasing his own influence both here and in the Indies, and having at the same time a spirit bold enough to execute the most violent and unjustifiable excesses, and an extraordinary impudence in attempting to defend them. He seriously appealed to those members who were proprietors of East-India stock, not to omit this opportunity of revenging themselves for the many injuries they had so constantly and uniformly sustained: he implored the Directors to rescue themselves from the disgraceful charge which so long was attached to them, of a base and servile acquiescence in the power and influence of a man so justly signalized for his cruelty and oppression. He implored every member generally, who felt for the honour, dignity, and justice of the House of Commons, to assert it in this instance; and having before their eyes the most incontestable proofs of internal profusion and profligacy, that they would not suffer him to go up to the House of Lords and allege as merits and services, actions which were so clearly and so evidently demonstrated to be crimes and misdemeanors: they had already convicted him of such offences as must infallibly bring him before the superior and ultimate tribunal of the House of Lords: the allegations indeed of the former charges were of the deepest species of guilt; and the House, in their votes upon the several preceding delinquencies charged against Mr. Hastings, he was willing to own, had rescued their country from a pressure of odium: but if they suffered him to escape, on all or any of the charges this night moved against him, they would fall short of their object, and have "scotched the snake, not killed it!" He then moved, "That this Committee having taken the said charges into consideration, and heard evidence thereon, were of opinion that they contained sufficient matter to impeach Warren Hastings, esq. of high crimes and misdemeanors."

Mr. *Pitt* rose thus early in the debate, in hopes that what he had to suggest might prove the means of bringing the question to a more narrow and determinate point. He believed the chief object of those who brought forward the prosecution was to confine it to such facts as should not only be of evident criminality, and capable of substantial proof when brought before the final tribunal, but also such as were of a description and magnitude sufficient to warrant that departure from the uniform practice of jurisprudence in this country, which was intended on the present occasion. In this view he had considered the charge just opened by the hon. baronet. With regard to the contracts, there were some of them in themselves so insignificant as not to be entitled to any discussion whatsoever in Parliament, with a view to impeachment; and others were so circumstanced in point of time, as to be extremely unfit to be made a ground of criminal charge against Mr. Hastings. On this head, he called the attention of the committee to the situation Mr. Hastings had been in, at and since the time when the chief part of the contracts had come first under the consideration of the Directors, and when he had been censured by them. After that censure, they had become objects of parliamentary inquiry. And what had been the result of that inquiry? With respect to Mr. Hastings, they had not at all operated to his prejudice; for, subsequent to those

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inquiries, he had been thought worthy of repeated parliamentary appointments to his situation in India. How, then, would it appear, if Parliament, after having examined the grounds of the charge against Mr. Hastings, and notwithstanding such examination, having appointed him expressly to a very high and confidential station, should afterwards, without any new documents against him, make those very articles the subject of a criminal charge, which before they had not considered even as a disqualification to a renewal of a great and important trust? Still, he said, that out of the several contracts stated by the hon. baronet, some were an exception to the rule which he had laid down, and which, though completed previous to those parliamentary appointments of Mr. Hastings, were yet so circumstanced as to be completely exempt from the reason he had given why the others should not now be considered as grounds of charge against him. Mr. Pitt now went over the several contracts, one by one, pointing out, either from their dates previous to Mr. Hastings's being appointed or re-appointed by act of Parliament to the government-generalship of Bengal, or from their more immediate intrinsic qualities, as their inconsiderableness, their propriety, or their necessity, either that they were not criminal at all, or, if so, were not criminal in a degree sufficient to warrant a proceeding by impeachment, or else that there had intervened, since the time in which they took place, such circumstances as amounted to a trial, and either an acquittal or a pardon of Mr. Hastings. In this case, he mentioned the first bullock contract stated in the charge, which he observed was, even if admitted to its full extent, not of sufficient importance to merit any discussion, and was, besides, completed a long while before Mr. Hastings's re-appointment, the whole of the circumstances being at the time of such re-appointment sufficiently known, so that it clearly came under the distinction with respect to date. The marine contract, and that for embanking the Chittigong river, were also within the same description in point of dates, and were in themselves so trifling, that he was sure the gentlemen who brought forward the charge did not wish to rest the issue of their inquiry on such objects. He therefore by no means looked upon them as fit articles to compose a charge for an impeachment. On that for embanking the river, he should contend, that there was by no means any ground for those collateral conclusions which had been drawn; nor were the circumstances relative to that transaction exactly correspondent to the statement made of them by the hon. baronet. In the first place, the hon. baronet had stated that the accounts of the expense of that work were sworn to by Mr. Fraser, the contractor, although he was not personally acquainted with the state of them; whereas the fact was, that the proper affidavits had been made by persons who had the immediate superintendance of those departments to which their affidavits went. The hon. baronet had dwelt much on the idea that this contract for the repairing the banks had been a corrupt job of sir Elijah Impey's, for the purpose of gratifying his friend Mr. Fraser; and had stated, as an evidence of this guilt, that he and Mr. Hastings had come forward with a voluntary justification before any charge had been made against them. Whether they were guilty or not, he should not at present attempt to argue; but would remind the hon. baronet, that on the occasion of that contract being entered into, an hon. gentleman who sat opposite to him, and who was then a member of the council of Bengal, had thought proper to write home to the Directors his ideas on the subject, and had in his letter made the charge now alluded to in the strongest terms against sir Elijah Impey, imputing to him for procuring, and to Mr. Hastings for granting the contract in question, the most corrupt and unjustifiable motives. In order, then, to confute this accusation, but not merely voluntarily, as had been stated by the hon. baronet, Mr. Fraser made an affidavit, stating, "that he had first conceived the idea of undertaking this business—had consulted his friends upon it, and after having, by their advice and his own consideration, determined upon undertaking it, he had applied to sir Elijah Impey, as his patron, for his consent that he should send in a proposal for it to the council." He therefore cautioned the committee how they suffered themselves to be swayed by the interpretation of this transaction, into an evidence of guilt, and put it to them to determine whether the charge made against them was not sufficient to stimulate them to take steps for their own justification, without affording any presumption that those steps proceeded, as had been insinuated, from a consciousness of guilt.

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He next adverted to the elephant contract; and here he observed, that although the Company very properly sent out positive instructions to their servants, yet those instructions, coming from persons totally unacquainted with the immediate circumstances of affairs in that country, were to be construed liberally, and a latitude allowed to those who were to act under them, to accommodate them to such accidental situations and considerations as might occur, at the moment, and on the spot. Were this not to be done, the worst consequences might happen by a blind observance of instructions, framed in ignorance of the real state of the service, and calculated for circumstances and situations which no longer existed. He certainly admitted that it was right and proper, on almost every occasion, to give notice of all contracts whatsoever, that so those who made them might have the choice of a number of proposals, and be able to close with that which was most advantageous; but still, to this rule there might be an exception; and as to the time of the duration of contracts, he contended, that although many contracts might, with safety and prudence, be entered into for a year, yet there were others, which, from their nature, could not be undertaken with any sort of propriety for so short a time. For instance, when the commodity to be contracted for required a great capital and much preparation, an extensive credit and correspondence,—where it was of a perishable nature, or of such as if it lay upon hand after the determination of the contract, could not find an easy or advantageous sale,—in such cases as this, it would be by no means advisable to enter into contracts for a very short period; for such contracts must unavoidably be attended with great want of economy.—Mr. Hastings had fairly come to issue on that principle, where in his defence he had stated, that, "according to his construction of the Company's orders, they never were nor could be meant in any instance to leave their administration in India without an option. At such a distance from the parent state, the government on the spot must be vested with a discretionary power; but where positive orders were sent, when those orders were disobeyed, and the reasons assigned for such disobedience were not satisfactory, censure or punishment invariably ought to follow." On this principle, he should wish to consider the present charge.

With regard, then, to the contract for elephants, although there might have been some profusion in that, and in all the other mentioned contracts—and he by no means meant to enter into that discussion, with respect to any of the articles which he wished to exclude from the charge, their degree, and the period in which they took place, being what he was chiefly governed by—yet there was no proof whatever that such profusion existed in the present instance. Although the hon. baronet had stated the former price for the keeping of elephants, at 40 rupees each, and that agreed for by Mr. Hastings at 70, and had from thence inferred, that there was a squandering of 30 rupees for each, yet that statement was by no means to be taken literally; as in fact there was not only the difference so stated in the charge for the service, but also another very material difference in the service itself. When the price was at 40 rupees, it was only for the bare maintenance of the elephant; but, when it was raised to 70, it was for the animal itself, as well as for his keeping; for, in the last instance, the contractor was to find the elephants himself. The hon. baronet had dwelt much on the circumstance of the elephants at that time in the possession of the Company being given up to the contractor; but besides that the number of those was exceedingly small (only 13 out of 70), in comparison with the number to be kept up, it was, were the proportion otherwise, a very prudent policy to transfer the actual property in the animals to the person who was to have the management and care of them. But it had been stated, that the double contract, both for the elephants and their keeping, might have been made for 40 rupees a piece, and that a proposal to that effect had been delivered in, and rejected. This fact was only substantiated by a letter from general Clavering to the Court of Directors, complaining of the exorbitancy of the terms agreed upon with Mr. Templer, and stating that there was a person who would have contracted for the whole service on the terms alluded to. But, with every degree of respect for gen. Clavering's memory, he could not consider such evidence as sufficient to warrant that House to act upon it. There appeared no such proposal on the face of the consultations; and if such a proposal had been formally made, it did not appear upon what ground it had been rejected. It might possibly

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have been asked, what capital was the person making the proposal possessed of? what credit was he in? what security could he give for the performance of his engagement, should his terms be complied with? And if no satisfactory answer had been given to these questions, it would, so far from being criminal to reject them, have been highly culpable to have embraced them. There was, besides a circumstance attending this contract, which evidently showed it to be free from that degree of criminality which was imputed to it. This was, that the hon. gentleman opposite (Mr. Francis) had been present at the consultations in which it had been concluded upon, and, instead of coinciding with gen. Clavering, had joined in opinion with Mr. Hastings. On this part of the charge, therefore, he was by no means inclined to impute any degree of guilt to Mr. Hastings.

With respect to the second bullock contract in 1779, he was, however, of a very different opinion, as that was evidently made upon a most extravagant scale. The usual rate for the keeping of those cattle had been, for no one apparent reason, unconscionably increased. It had been increased in several different ways, by changing the rupees from the lower to the higher denomination, and by abolishing a distinction which had hitherto taken place between the service within and without the provinces, and another distinction between the times of actual employment and of idleness. To the terms of this contract there had been a strenuous opposition in the council, and the members had entered their reasons at length, and very satisfactorily, for their disapprobation; and to those reasons no answer had been given by Mr. Hastings, but he had simply contented himself with declaring, that he had very justifiable motives for opposing the wishes of his council, which at that particular period he was not prepared to state. The Executive Government at home, and the Directors of the India Company, had given him credit for this assertion; and so doing, the circumstance, open as it was thus conceived to justification, was not counted of consequence enough to prevent his subsequent re-appointment. But that re-appointment having taken place while it was yet supposed that Mr. Hastings might have the means of justification, the whole of his guilt not having been before them, it could not be implied that that House had acquitted him of it. Had any reasons been since offered, he should think those ought now to be fully weighed, before any determination should be come to by the House; but as none had been assigned, the naked fact of the contract, impeached as it was by the reasons assigned in opposition to it, and unsupported by the promised vindication, called loudly for the animadversion of the House. On that ground, therefore, he should, in part at least, vote with the hon. baronet on the present occasion.

As to the contract for supplying Fort William with the necessary stores and provisions in case it should be besieged, he entertained a very different opinion. The gentleman who, in the council, had opposed that measure, had given as his reason, an argument drawn from an analogy to the service in Europe, by stating that he knew of no garrison belonging to his Majesty in this quarter of the world which it was thought necessary to keep in a state of preparation for a siege in point of victualling, except Gibraltar. In this exception, that gentleman had unfortunately fallen upon an example the most in point against himself which was possible for him to select. Fort William was in Asia, as Gibraltar in Europe, the very place which, of all others, from its situation and its uncommon value, would be the most liable to an attack from an enemy. Mr. Pitt ridiculed the idea thrown out by sir James Erskine, that the supplying Fort William with stores against a siege was an instance of a parallel absurdity, with the keeping the Tower of London in a constant state of preparation; and he recommended it to the hon. baronet to appeal to an hon. gentleman beside him (Mr. Francis) to learn what was the state of his mind, on that occasion. He would then find, that in that hon. gentleman's opinion, the idea of an attack on Fort William was not quite so visionary as a siege of the Tower of London. That hon. gentleman had expressed the most violent fears, and was warm in his remonstrances to have it properly supplied for such an event; nay, when Mr. Hastings proposed to relieve the Carnatic, when threatened with a most alarming approach of famine, so quick were that hon. gentleman's apprehensions for Fort William, that he opposed the sending of provisions to Madras, lest, by so doing, Fort William should be left unprovided for the impending danger of a siege.

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Mr. Pitt now proceeded to discuss that part of the charge which related to Mr. Auriol's contract for the supply of the settlements on the Carnatic. The circumstances of that transaction were, he said, of such a nature as merited the most liberal and indulgent disposition in judging of them, as they formed the most brilliant epoch of Mr. Hastings's administration. Mr. Hastings having been apprized of the dreadful state of Madras and its dependencies, of the imminent and immediate danger which they were in of being absolutely destroyed by famine, with a promptitude and an effect which did him the highest honour, and was of the most beneficial consequence to all our Indian possessions, determined upon their relief. What, then, would the hon. baronet, and they who supported the charge, have wished Mr. Hastings to do? Would they direct him, at the moment when the very existence of the Carnatic was at stake, when the lives of his countrymen, and the possessions of his employers depended on his spirit and dispatch, to hesitate sending them the means of preservation, until he should discover the cheapest method by which those means were to be procured? Was he to publish to the enemies of the Company and of Great Britain, that a most valuable part of our territory was likely to be a prey to famine, and to point out the means of intercepting the supplies which he was about to send them? No; the very nature of the case imposed upon him the necessity of violating the strict line of obedience to the Company's orders; and the only questions remaining were those which had been so much dwelt upon by the hon. baronet. As to the question how far Mr. Auriol was a fit person to be employed in the agency; and whether the profits which he had been allowed were exorbitant?—in the first place, he must confess, that although a deserving person, and one who had conducted himself in a confidential situation, as Mr. Auriol had done under Mr. Hastings, in such a manner as to give perfect satisfaction, might appear entitled to some signal reward, yet he by no means thought it an eligible thing to confer upon such a person such a reward as that which had been bestowed on Mr. Auriol by this contract. Still, however, the bestowing it upon him had no appearance of corruption; for at all events, the agency must have been given to some person, and to whomsoever it was given, it must have been beneficial.—Mr. Pitt then pointed out the proportional profits arising to Mr. Auriol, and argued that they were by no means such as they were stated by the hon. baronet; nor, considering the circumstances of the case, and comparing them to other analogous services, at all exorbitant. Mr. Auriol's difficulties in the execution of the agency were extremely great; he laboured under a heavy interest for a great part of his capital, ran great risk from the vicinity of an enemy's fleet on the coast, and in consequence of that circumstance, the expense of freight was prodigiously increased. He compared the profits of Mr. Auriol, under all those circumstances of difficulty, with the profits of a subsequent contractor for the same article, when no such circumstances existed, and showed that those of Mr. Auriol bore only a proportion to those of the other person, of about $7\frac{3}{4}$, to $6\frac{1}{2}$. He put this to the gentlemen on the other side, whether it was a transaction of such a nature, under all its circumstances, as could bear that complexion of guilt which they imputed to it? The hon. baronet had stated, that notwithstanding the Company had sent out orders for a very considerable reduction to be made in the rate of agency allowed to Mr. Auriol, yet that reduction had only taken place on the bare article of freight. In the way the hon. baronet had represented this circumstance, doubtless the reduction so made must appear to the Committee as a mere trifle; but when he stated the real fact, he believed gentlemen would see it in a very different point of view. The real fact then was, that the rice was, at that time, sold for two rupees per bag, whereas the freight to Madras was five rupees; so that the reduction went to five parts out of seven of the whole undertaking, and therefore could by no means be considered in that insignificant light in which it was attempted to be shown by the hon. baronet. On this ground, he should, for the several reasons which he had stated, the necessity, and even the merit of the measure itself, the apparent reasonableness of the terms on which it was executed, and the insignificance of the transgression, if any did actually exist, withhold his consent to the motion in its present shape, as it involved this transaction, in itself by no means criminal, with others which were, as he considered them, highly reprehensible.

On the subject of the opium contracts, he in a great measure agreed with the

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hon. baronet. He entered into a discussion of certain suggestions which had fallen from sir James Erskine, as if the first contract had been given by Mr. Hastings to Mr. Mackenzie, in order to conciliate to his interest a noble earl to whom Mr. Mackenzie was related, and contended that no reflection could be cast on the character of that noble person from those suggestions. He then examined the second opium contract, in which, he said, evident circumstances of criminality were implicated. His having granted it on terms immediately repugnant to the orders of his masters, and that to a person connected and allied as Mr. Sullivan was, became a most palpable ground for suspicion of corruption. But as to the blame imputed to Mr. Hastings on the subject of the trade of opium with China, he by no means saw it in that criminal point of view; nor would he take upon himself to say, but that such a trade was highly beneficial and proper to be carried on at the suit of the Company. On this head, he should also be willing to vote the charge, provided it could be so done as not to involve along with it other circumstances that he thought by no means proper subjects for an impeachment.

Having thus gone through the first of the general heads into which he had divided the question, that which related to contracts made by Mr. Hastings; he came to consider that which appeared to him of the most permanent magnitude of any other part of the subject, which was, the increased salary given by him to sir Eyre Coote, in avowed disobedience of the Company's orders, and the imposing the payment of that additional salary on a prince closely connected with the Company, and who already paid to the Bengal government a fixed and stipulated tribute; which was a gross and manifest violation of the faith of the Company, and a perversion of the power entrusted to him in his office. His continuing this salary in an underhand and covert manner, after a particular prohibition from the Directors, was an ignominious and disgraceful evasion of his duty, and one which highly merited the censure of Parliament; and that part of the charge should, consequently, have his most hearty concurrence.

As to the other branch of the question, relating to the profusion of the civil expenditure, that was a subject which, circumstanced as it was, he should by no means consent to make any part of a criminal charge. How had the crime imputed on this head to Mr. Hastings been attempted to be substantiated? First, by comparing the amount of the establishment under Mr. Hastings's administration with what it had been before, and from the excess and increase, assuming a conclusion of guilt and dissipation. But was this a fair way of considering it? The hon. baronet had stated the increase to be from 227,200*l.* to near 900,000*l.* After disputing the accuracy of this statement, Mr. Pitt said he should not attempt fully to acquit Mr. Hastings of the charge of profusion; yet he could by no means be satisfied with such an evidence of his guilt as arose from a comparative view, proposed as a criterion by the hon. baronet; for, independently of the very great increase of revenue, which would always be attended with an increase in the expense of collecting it, there had been several new establishments instituted;—among others, the Supreme Court of Judicature, the provincial Courts of Justice, and many new establishments which must necessarily add much to the gross amount of the civil expenditure. Under this head, great stress had been laid on the increase of the expense attending the Salt-office: but let gentlemen consider, that in the period of that progressive increase, the revenue on salt itself had experienced a still greater proportional increase, insomuch that the expense of collection was now greater than the whole produce had formerly been; namely, 70,000*l.*, whereas the produce used to be but 60,000*l.* But, at the present period, the amount of that revenue was upwards of 600,000*l.*

Nor was the other criterion set up by the hon. baronet a fairer method of judging on the system of economy which Mr. Hastings had adopted; namely, the great reduction which had taken place since his departure in the expenses of the Indian government. Those reductions were in consequence of plans sent from home, which, by laying strong restraints on the executive government there, had relieved it, in a great degree, from that almost irresistible importunity, to the increasing of expense, which till lately it had always had to contend against: but, was it to be imputed to Mr. Hastings as a crime, that a way had lately been discovered to correct the abuses which had manifestly existed in the government, but which the Directors had found themselves unable to do, though they had often attempted it,

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and which could never have been effected, had it not been by the interposition of Parliament, and those salutary regulations which had been enacted for the better management of our concerns in India? He was happy to find, that the effects of those regulations were such as answered his most sanguine expectations; and that among the many valuable consequences of the new system of superintendence, a great reduction of the expenditure had been one; and he flattered himself that there had been sufficient care taken in framing the lately-enacted laws, that what had been so happily begun should be of long continuance, as the principle of those laws was such as must necessarily interest Parliament to a constant periodical and not barely formal investigation of the affairs in India. And, as long as his right hon. friend beside him (Mr. Dundas) continued to preside over that department, he trusted it would wear such an aspect as Parliament could contemplate with pleasure and satisfaction. That right hon. gentleman would, on some future day, open to the House the real state of the present establishment in India. For the present question, he should only observe, that no specific act of profusion having been substantiated, but only imputed from a comparison with former and subsequent establishments, he did not consider such grounds sufficiently strong to warrant that House to include it in a matter of impeachment. This consideration led him to suggest to those who were the friends of the prosecution—and after what had already passed, there was none, whether with a view to the dignity of Parliament, or to the ends of public and substantial justice, that could have any wish but to forward it as soon as possible, and to bring it before the other House in the most unquestionable shape—to those gentlemen he wished to suggest, that it was by no means the best way to the end they had in view, to clog it with useless, unnecessary, and impracticable matter. To strip it of all such, was the most advisable thing for the House to endeavour; and he wished the right hon. gentleman who had taken so active a part in the business, would, on some early day, ascertain and determine on such charges as he intended to bring forward, as there were many of those already before the House, that he was certain could never be made out in proof, or if they could, were not of sufficient criminality to warrant the present mode of proceeding. For the several reasons he had given in the course of his speech, he should propose an amendment to the motion, which, if it should be adopted, would leave him at liberty to vote in support of the general question: his amendment was to add words of the following purport to the motion—"In respect to the contract for bullocks in the year 1779; that for opium in the year 1781; and to the increased salary of sir Eyre Coote."

Mr. *Burke* declared, that he had never heard a more business-like speech, nor a more masterly detail of facts with apter illustrations, more sound reasoning, or more pertinent remarks, than those of the hon. baronet who opened the debate. His speech was a wonderful display of ability from so young a man. He begged leave also to inform the right hon. gentleman who spoke last, that he considered his as amicable, and as such he deserved his best acknowledgments for them. It was certainly his object to bring matters to a conclusion as soon as possible, consistently with the dignity and justice of the House. But how this end was to be accomplished he was perfectly at a loss to determine. He knew not what matter, in the different articles of the charges which he had brought forward, to retain, and what to reject. All appeared to him to be of much consequence; but what points were of more, and what of less importance, he could not easily decide; nor did he know whether on this subject he could safely trust to his own judgment. In fact, he resembled, in his present situation, a ship-master who was under the necessity of throwing some of the cargo over-board; but what articles he was to commit to the waves, and how he was to lighten the vessel, he was perfectly at a loss to determine; nay, he was afraid to enter on this office, lest gentlemen should afterwards tell him, "You indeed at first furnished yourself with an excellent cargo—many of your materials were of the very best quality; but, whilst you have retained trifles, the articles of greatest value you have indiscriminately thrown over-board and consigned to the waves." He was therefore fearful of beginning a business which might prove in the end so hurtful to that cause, which it was originally his concern, and had now become that of the committee, to have brought to a proper issue. Nor did he see that there was any reason for delaying the carrying of the impeachment to the bar of the

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House of Peers, till such time as the committee had gone through, and decided on each article of the charges. This had not been customary in conducting matters of this kind. In the case of Dr. Sacheverel, the very opposite mode of procedure had been adopted; and so strongly was this precedent in point, that no other cause could be assigned for the House adopting this line of conduct, than this very one, that they seemed determined, by carrying up articles of impeachment after articles of impeachment, to maintain a right which they had long been in possession of, and in that instance were resolved not to abandon. The charges on which the committee had determined, were grave and interesting; but there were others of no less moment than those which had been brought forward; and to abandon those, would amount to an act of public injustice, and would be treachery to that cause in which they were now so laudably engaged.

With regard to the remarks which had been made by the right hon. gentleman on the variety of matter contained in the charge under deliberation, he could not entirely concur with him in opinion; nor could he think of allowing some of those points, which, agreeably to his amendment, he had wished to omit, to be entirely rejected. The points contained in the charge were multifarious; but notwithstanding their variety, they had one common object: that object was, to show that Mr. Hastings's government had been prodigal and corrupt. It was to illustrate this feature in his administration, and to prove that he acted on system, and that that system was depraved, that he had brought forward so many examples. This had been his main concern; and to characterize the government of any person, it was absolutely necessary to take into the account a great variety of acts. In vindication of Mr. Hastings, it had been alleged, that he had not been criminated by those who were superior to him. But was this a solid argument in his favour? Could it with any decency be urged, that, because a person in office, who had suffered himself to be corrupted, who, in that station in which he had been placed, had been guilty of peculation, and of various other misdemeanors, incompatible with the character of a man of confidence; and who, notwithstanding all these depravities, had escaped either the eye or the censure of his superiors; could it be urged, that he was on this account to be vindicated? that he was on this account to be absolved from those crimes, which, owing to a fortunate revolution of affairs, had been brought to light, and were likely to become the objects of national justice? No; the plea was inadmissible. If any person employed by the right hon. gentleman who spoke last, were to betray the trust reposed in him, and if, after ten years had passed away, this misconduct were to be detected, would it form any apology in behalf of such a culprit, that he had escaped the censure of the right hon. gentleman under whom he had been engaged? Would this circumstance exculpate him in the eye of the House, or before the tribunal of justice? It certainly would not. But, with respect to Mr. Hastings, the fact was, he had not only corrupted India, but he had also corrupted the Court of Directors, who were his superiors. He had blinded their eyes; and this circumstance was a principal cause why his conduct had not been stigmatized by their marked disapprobation. But to assert, that on this account he was to be vindicated, was as absurd as to affirm, that because robbery was now, perhaps, more frequent than in any former period, the law therefore tolerated it, and it was on this account excusable.

But he wished to enter into an examination of those points to which the right hon. gentleman had objected, and which it was his object to separate from being grounds of charge. The rice contract was one of them—did he recollect that this very contract, which was intended for the preservation of Madras in the first instance, was to be executed at the risk of destroying Bengal? And why was this sacrifice to be made? For the express purpose of gratifying Mr. Auriol. And was there no other way by which this gentleman could have been recompensed for his meritorious poverty? What was the sacrifice of public interest which had been made on this occasion? Had not the merchants promised to procure the rice at 5 per cent.? Why then give Mr. Auriol an enormous benefit of 15? Was this douceur likely to qualify him the better for discharging the duties of his engagement; or was there any thing in his habits of life to entitle him to so extraordinary a preference? He was out of trade: he had no capital: he had nothing to justify his being put on the same footing with those whose profession was mercantile, who were ready to act on the

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shortest notice, and who, of course, could have undertaken the execution of this contract with more facility, and on more reasonable terms than Mr. Auriol. But this contract was not confined in its operation to Madras. It extended to Bencoolen—to St. Helena, which was almost at our own door—and to Bombay, where, notstanding the jobbing mood which they were not unfrequently in, in that part of the world, they had been astonished at the circumstance of being supplied with rice, at double the price they could have procured it for themselves. This mode of rewarding people for their services, he considered as highly impolitic and dangerous; increase of salary was surely a much wiser method—for, encouraging the hope of recompense by the means of contract, what was it but to exhibit a motive to induce mankind to rob the public?

The next point on which he animadverted, was the duty on salt. There he also alleged, that a most shameful alienation of the public money had obtained; for the first commissioner had a yearly income of 18,000*l.* given him, which was certainly extravagant, and an eminent example of that corruption, which distinguished the government of Mr. Hastings. Mr. Hastings had acted as the agent of the Company against the Company—and for what reason? Who was Mr. Belli? His own private secretary. And when a person of this description got a gratuity of 30 per cent. on a contract which could have been executed for 20, and when this contract was extended in the very face of the orders of the Court of Directors during five years—was there not something in this mode of conduct to justify, what was more than suspicion, a rational presumption of criminality? Feeling, therefore, the importance of all these considerations to illustrate the general feature of Mr. Hastings's government, he thought it would be improper to omit them, and therefore he would propose an amendment to the one made by the right hon. gentleman, including the agency for rice, the salt-duty, and the other articles on which he had enlarged in the course of his remarks.

Major *Scott* said, that at so late an hour he should reserve much of what he had to say upon the present question till it came again before the committee, and would merely confine himself to some explanation of the only two contracts which had been censured by the right hon. gentleman; first observing, that if the profits of all the contracts were as exorbitant as the hon. baronet had stated, which he was prepared to disprove, they would not, taken altogether, amount to more than one half of the profits arising from the loan of a single year during the late unfortunate war. With respect to the bullock contract, he should declare generally, that it was highly advantageous to the Company; that it was concluded in consequence of representations from general Stibbert, immediately after the breaking out of the French war; that it was a matter of public notoriety to every officer of the Bengal army, and of universal complaint, that previous to the conclusion of the contract with Mr. Croftes, no part of the army in Bengal had ever moved without infinite distress to the country; that bullocks were constantly pressed, to the very great distress of the husbandmen, and to the very great loss of the revenue: he could mention many instances to prove this, that came within his own knowledge—one in particular. When colonel Champion marched with the first brigade from Dinapore, in February 1772, he was unable to move till the whole country round Patna had been swept for bullocks: and in the course of his march through a district producing a revenue of only three lacks a year, the collector of that district claimed a deduction of 70,000 rupees for his district, on account of losses sustained in consequence of the farmers' bullocks having been seized. This was not the only instance, for he would take upon him to declare, that no corps of the army had marched, from 1767 to 1780, without experiencing the same inconveniencies, and without creating the same distress to the country; and he was convinced that it would be better to disband five or six battalions, than to reduce the bullock contract so as to endanger the strict performance of the service. Since the conclusion of Mr. Croftes's contract, the park of artillery, and every corps of the army, was furnished with its proper complement of bullocks. He had had the honour to command a battalion of sepoys at Chunar, and his corps, with his guns and ammunition, were ready to march at any time at five minutes notice; but formerly, when an order of march was issued, the first thing necessary was, to sweep the country for bullocks. There were, after the expiration of Mr. Croftes's contract, four brigades in Bengal, Bahar, and Oude; there was an army in the field under col. Cormac, afterwards colonel Muir's; ano-

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ther under col. Popham, and a very considerable detachment under col. Pearce, in the Carnatic. The explanations alluded to by the right hon. gentleman were before the House, though not printed: he did not, however, desire to postpone the decision of the question on that account; another opportunity would offer, when he trusted it would fully appear, that the second bullock contract was a necessary and an economical measure; whereas the first, being on such low terms, was merely a deception; the hon. gentleman (Mr. Francis) having himself allowed that bullocks had always been pressed on the movement of any part of the army.

As to the opium contract, he would state that fairly and fully; it was a subject that could not, and should not, be misunderstood: it was a fact that opium always had been, and always must be, a monopoly: in the time of the Mahomedan government it was a monopoly, and given to favoured individuals. From the time we acquired influence, it was a monopoly in the hands of the civil servants of the Company at Patna; not a secret monopoly, not a transaction committed in the dark, but as openly and avowedly taken, as a perquisite of office, as any fee attached to any patent office in this country—perfectly known to the government of Bengal, and perfectly known to the Court of Directors at home; so it continued till Mr. Hastings came to the government in April 1772. He was the first who made the Company participators in this monopoly; not in consequence of orders from home; but he himself created the revenue for them: and it appears by papers upon the table, that during his administration, though the Company gained above 500,000*l.* by the monopoly, still it was a great advantage to individuals. The first year the Company took a certain number of chests to send to Balambangan at 400 rupees a chest; the second year they took all the produce of the province, for which they paid 320 rupees a chest. In 1775 the governor-general and council advertised for sealed proposals for furnishing all the opium of Bengal and Bahar on the Company's account, and the contracts were given to the lowest of thirteen who sent in proposals. Here, then, was the fair price fixed: the hon. gentleman (Mr. Francis) declared, that he should be against concluding the contract on too low terms; and he well remembered, that Mr. Griffith's terms were so low, that many well-informed men thought he would be ruined by the contract. The fact however was, that he very honourably and fairly acquired a fortune by it. Mr. Griffith had the Patna contract; and Mr. Wilton, a gentleman who lived in col. Monson's family, had the Bengal contract for one year; before the close of that year the governor-general and council, without advertising for proposals, gave it them on the same terms for one year more; and then in 1777 it was given to Mr. Mackenzie on the same terms, as a matter of favour, for three years: he had the Patna and Bengal contract. And now, the Major said, he came to a circumstance which both the hon. baronet and the right hon. gentleman (Mr. Pitt) had totally omitted. The Court of Directors were undoubtedly well pleased, that by the attention of Mr. Hastings they had acquired a great revenue, from a source which never produced one before; but in their letter of Dec. 1778 they expressed their displeasure, that it had not a second time been put up to auction and given to the lowest bidder: this letter arrived in Bengal in Dec. 1779; but a transaction took place in May 1780, which was totally sunk on all sides. In Feb. 1780, a coalition took place between Mr. Hastings and Mr. Francis, which, the Major said, he was a little instrumental in bringing about, and had lamented it, since it had not gone on so happily as some other coalitions in this country. Mr. Mackenzie was the intimate friend of Mr. Francis, and in May 1780, having previously concerted the matter, he wrote a letter to the governor-general and council, requesting the opium contract for one year more, making four years. The order of the Directors was then before the governor-general and council for putting it up to auction: but was it noticed? No. The whole board, then consisting of Mr. Hastings, Mr. Francis, and Mr. Wheler, without a word of debate, without even an allusion to this order, gave it to Mr. Mackenzie. It was avowedly a matter of patronage at all times, and, as such, given away to a connexion of the hon. gentleman's, not to a friend of Mr. Hastings; and he trusted, that if Mr. Hastings was to be censured, the censure should begin from May 1780, when, with the Directors' orders before them Mr. Hastings, Mr. Wheler, and Mr. Francis, gave the contract to Mr. Mackenzie for one year, after he had held it for three. He neither wished to blink the question, nor to dis-

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avow his opinion of it; for he thought so much merit was due to Mr. Hastings for creating such a revenue for the Company, that he should be excused for still thinking it a good thing to the person who held it.

He now came to the next stage of this contract, and he called the attention of Mr. Francis to a fact that he had been told lately by Mr. Sullivan, who had called upon him, of his own accord, to communicate every circumstance of this opium business, and had given him permission to state it. In Sept. 1780 Mr. Sullivan arrived in Bengal; in October, having been told, as the Major concluded, that the opium contract was a good thing, he asked Mr. Hastings to give him his interest for it on the same terms it was then held, at the expiration of Mr. Mackenzie's contract. Mr. Hastings told him he would, but that he was under an engagement to permit another gentleman to have a proportion of it: this gentleman was Mr. Tighlman, a relation of the hon. gentleman (Mr. Francis), who then lived in his family, and went home with him in the same ship. Mr. Sullivan, in consequence of this information, waited upon Mr. Tighlman, and agreed to give him 25,000 rupees for his share of the contract; for this sum Mr. Sullivan gave a bond, and at the end of a year paid the money to Messrs. Hay and Ducarell on Mr. Tighlman's account. Mr. Sullivan has declared, that Mr. Tighlman had assured him before his embarkation, that he had communicated the matter to Mr. Francis. The Major said he would leave the facts with the committee: the matter was notorious, that the opium contract was an affair of favour and patronage; a great revenue was created for the Company; but still a very good thing was left for the disposal of the government of Bengal; and he was confident the merit of creating such a revenue would weigh with the world against the demerit of not reducing the contract still lower than the lowest of thirteen offers. The Major said, he felt himself quite free to declare his opinion upon these contracts; he had no concern in any of them—nor in any transaction out of the line of his profession, except one, which was highly honourable, and advantageous to the Company, and would have been of some advantage to himself, if the Court of Directors had not undone the deed, by which the Company sustained a considerable loss: the transaction he alluded to was undertaken with the hon. gentleman's concurrence and approbation, whose relation, Mr. Tighlman, had an equal share in it with himself.

Mr. *Francis* adduced several passages from the minutes, to prove that Mr. Hastings, in regard to Mr. Belli's contract, had acted inconsistently with his own principles, and in direct opposition to his (Mr. Francis's) opinion of what was fit. He declared that he was ever against the infamous mode in which the opium contracts were given; that he had always pronounced his opinion against them; and that when it was first given to Mr. Mackenzie, he was absent a hundred miles from Calcutta. In regard to the circumstance of his relation, Mr. Tighlman's participation, he declared upon his honour, that he knew nothing of the circumstance until he came to England. He was not accessary to his obtaining it. Mr. Tighlman had the interest of Mr. Wheler, and through him he imagined that he obtained the promise from Mr. Hastings. As to himself, he dared Mr. Hastings and the Major to prove, that it was, in the most oblique way, through his means that Mr. Tighlman got the promise. His memory might not at all times furnish him with the clear circumstances of every fact suddenly started in debate; but on such points he had a stronger reliance than on his memory—he relied on his principles, which, during all the time he was in India, preserved him from any direct or indirect traffic of corruption, either for himself or others. But what would the House now say to the open confession made by the hon. major, that Mr. Hastings had given this contract away as a boon, for the purpose of influence? This was the most open and barefaced acknowledgment of corruption he had ever heard; and he left Mr. Hastings to thank the hon. member for the service he had rendered him by the declaration.

Major *Scott* said, he had the fact from Mr. Sullivan, and not from Mr. Hastings; and he declared, that he had meant nothing improper with respect to the hon. gentleman (Mr. Francis).

Mr. *Le Mesurier* spoke against the motion, but confessed that he could not defend the principles on which several of the contracts had been made.

Mr. *Dempster* said, he had attended very closely to the whole progress of the debate. He had not been able to collect that there was any direct charge of corruption against Mr. Hastings himself, or

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that he had been benefited by putting money into his own pocket. With respect to Mr. Sullivan's contract, he denied that it had been given to that gentleman on account of his father being chairman of the Court of Directors, but in consequence of the very old intimacy which had taken place between them. The father had been in straits; the son had returned from Ireland, where he had resided for some time, and had disposed of a place which he held, to supply his father's wants. In this state he went out to India, and Mr. Hastings had provided for him. These facts he was well acquainted with, and he wished the committee to attend to them. He was also desirous that the committee might adjourn the consideration of the business till such time as it could consult the voluminous papers which had so recently been laid upon the table. As to the monopoly of opium, he was perfectly against it. Monopoly never produced any advantage; it weakened and depressed the spirit of mankind; in India it had been the cause of the worst effects, for the miserable ryots had often been obliged to destroy the rice which they had previously sown for the purpose of planting poppies.

Mr. *Vansittart* explained to Mr. Dempster, that a regulation had taken place in India fifteen years since, by which the inhabitants were not obliged to cultivate the poppy.

The Committee then divided on the question, that the words contained in Mr. Burke's amendment do stand part of the motion: Ayes, 66; Noes, 57:—Majority in favour of Mr. Burke's amendment, 9. The Committee then divided on the main question, including both Mr. Pitt and Burke's amendments: Ayes, 60; Noes, 26:—Majority for the impeachment on the amended motion, 34.

Debate in the Commons on the Consolidation Bill.] March 7. Mr. Rose reported from the Committee of the whole House, to whom it was referred to take into consideration so much of his Majesty's Speech to both Houses, upon the 23rd of January last, as relates to simplifying the Public Accounts in the various branches of the Revenue, the Resolutions which the committee had come to. The said Resolutions (2537 in number) were then read and agreed to by the House; after which, Mr. Pitt moved, "That a Bill be brought in pursuant to the said Resolutions."

Sir *Grey Cooper* observed, that in the debate on the Address to the Crown on the Commercial Treaty, he gave his opinion, which he was now more and more confirmed in, that the first, if not the sole object of that Address, was to pledge and bind that House, to the entire approbation of the whole Treaty, and to attempt to preclude any further discussion of the principle on which it was founded, or any ulterior question on the detail of the tariff, and the other articles, to which the King, by his prerogative alone, could not give validity and effect: but whatever attempts might be made to bend the forms of parliamentary proceedings, to serve the purposes of a favourite measure, or a particular occasion, or to suprise that House into an approbation of a sudden project, he was persuaded that no address, contrivance, or management, could prevail so far as to alter the settled rules and orders, which, by the long and uniform practice of Parliament, were in such cases the law of the land, and which the House was, in its legislative capacity, bound to adhere to in all its proceedings, and particularly in the passing of bills. If this were so, whatever might be the view of those who proposed and supported the Address, he contended, that it was still competent for every member, in every stage of the proceeding, before the Bill for carrying the Treaty into execution should have passed the House, to state any doubts, or to offer any objections which he might continue to have to the whole or any part of the Treaty, or which he might have discovered since the Address was voted. But another impediment was about to be thrown in the way of the free discussion of this great and most important measure. The Resolutions which were voted in the committee of the whole House, appointed to consider of the Treaty, had since been referred to the committee for preparing the Resolutions for the basis of the Bill for simplifying and consolidating the duties of customs and excise. He felt it impossible to avoid condemning the manœuvre of endeavouring to swallow up the few Resolutions respecting the Commercial Treaty, in the multiplied consideration of 3700 Resolutions, which would be produced by the plan for consolidating the customs. The former were as drops of water in the great ocean of the latter; and it might be said of them, in the language of the poet,

"Apparent rari nantes in gurgite vasto."

Notwithstanding that, the Chancellor of

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the Exchequer had given them a separate schedule, as a sort of plank to float upon. This separate schedule inclined him to hope that the tariff duties would have been brought before the House in a separate Bill; but he was sorry to find, by the motion of the right hon. gentleman, that this was not his intention. It seemed to him, that the continuing to keep the Resolutions for carrying the French Treaty into execution, blended, incorporated, and confounded in the same Bill, with the vast multitude which formed the Consolidation Bill, was an unfair and unparliamentary restraint on the freedom of voting. If it had not happened, by a singular and whimsical concurrence of circumstances, that in the same session, and almost at the same time, when this great innovation in the commerce of the kingdom was proposed to Parliament, the Bill, which had been long in contemplation, had not been brought forward for simplifying the collection, and consolidating the duties of customs, and as a basis and groundwork for which it became necessary to re-consider, re-cast, and re-vote the whole mass of duties, and to ascertain what integral sum should be demanded hereafter on each specific article imported, exported, or carried coastwise—if it had not been for this fortuitous circumstance, there must necessarily have been a separate and distinct Bill moved for rendering effectual the tariff of the French Treaty, and whatever other articles wanted the aid of Parliament to give them energy and effect. Advantage had been taken of this event—and, as it appeared to him, an unfair and unparliamentary advantage—to keep the Treaty as much as possible out of the sight and out of the mind of the House. The subject matter of opening a commercial intercourse with France on certain reciprocal stipulations, had no relation to, or connexion with, the matter of the Consolidation Bill, except in one point, and in so far as it respected the settlement of the duties which every article of commerce was to pay in future. That being done and adjusted, the subjects were perfectly different and unconnected. What had the policy or principle of a commercial treaty with France to do with a plan calculated for the ease of the merchants in making their entries and paying their duties? He was aware that it had been but too much practised in that House, to put together, in the same Bill, propositions and clauses which had no immediate relation to each other: he had always thought that bills, which were called hodge-podge bills, were contrary to the spirit of parliamentary order, and ought to be avoided as much as possible. But in those cases, the propositions taken separately were seldom liable to any objection in either House; yet, to do this in cases where it was known that one of the component parts of the Bill would be opposed in the progress, and that many members in that House, as well as the other, might wish to vote for the rejection of the French Treaty, though not in any respect to oppose, much less to reject the Consolidation Bill; it was in effect to prevent both Houses from exercising the privilege which they had, as branches of the Legislature, to give their dissent to a proposition of which they disapproved, which they could not freely do, if they must, by the same vote, reject a measure which they all considered to be of the highest public advantage. Under the circumstances of the case, both Houses stood nearly in the same predicament. That House could not, it was admitted, alter or amend any part of the tariff, except for the purpose of rejecting the Treaty; and therefore the restraint even in the case of that Bill, which was certainly a money bill, was equal in both Houses. Upon this grouud, he thought himself justified in moving an amendment to the motion, by inserting after the word 'bill,' the words 'or bills.'

Mr. *Rose* contended, that it would be infinitely more convenient for the whole to go in one bill, than to divide the Resolutions respecting the French Treaty, and put them into distinct bills. Gentlemen would recollect, that as the laws now stood, the duties on the import of French goods, &c. were considerably higher than the duties on the import of the goods of other countries. Unless, therefore, the whole was put into one bill, there must necessarily be two new books of rates made out, and one printed to each bill; a circumstance which could not but be productive of the greatest inconvenience to the merchants, and to every person concerned in importation. On the other hand, the uniting the two subjects in one Bill would not, as had been suggested, preclude the freedom of debate, since every man would have full liberty to object to any one resolution.

Mr. *Hussey* observing that there should be two bills, added, that unless very solid grounds of inconvenience to the mer-

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chants could be stated, he saw no reason why the bills should not be as distinct as the subjects were. The hon. gentleman had said, that if there were, then two books of rates must be printed, and one annexed to each bill. He saw no great force in that objection. If the mere expense of printing was thought an objection, it ought not, in his mind, to be of much weight in matters of such infinite importance as both of the subjects undoubtedly were. As to the idea of gentlemen having a right to object to any one resolution during the progress of the Bill, and take the sense of the House upon it, it appeared to him to be next to an impossibility; for who could attend a bill comprehending 3700 Resolutions through all its stages?

Mr. *Sheridan* remarked, that there was no reason why there should not be two bills: it was a mere pretence: the real cause of blending the two subjects was in order to preclude objections to the Resolutions relative to the French Treaty. With regard to the argument of difficulty and inconvenience which would arise if there were two bills, he denied that it had been made out. The only argument advanced had been, that, in such a case, there must be two different books of rates. What difficulty would that occasion? The book of rates was already made out, and consequently there would only be the trouble of making out a fresh copy.

Mr. *Martin* observed that, having given his vote in favour of the Treaty, he meant to support it, because he really believed it likely to be attended with beneficial consequences; but he thought there was so much weight in what had fallen from the hon. gentleman opposite, that unless some more substantial proof of the inconvenience which would arise from having two bills instead of one could be given, he must vote for the amendment.

The question being put, that the words 'or bills' be there inserted, the House divided:

Tellers.

YEAS	Sir Grey Cooper Mr. Adam	64
NOES	Lord Muncaster Mr. Rose	137

So it passed in the negative. After which, leave was given to bring in the Bill.

King's Message respecting sir John Skynner.] March 19. Mr. Chancellor Pitt presented the following Message from his Majesty:—

"GEORGE *R.*

"His Majesty, being desirous of conferring a mark of his royal favour on sir John Skynner, knight, late Lord Chief Baron of his Majesty's Court of Exchequer, in consideration of his diligent and meritorious services, and of his faithful and upright conduct in the execution of that office, recommends it to his faithful Commons, to consider of enabling his Majesty to grant an annuity of 2000*l.* per annum, clear of all deductions whatever, to the said sir John Skynner, during the term of his natural life, to be paid out of his Majesty's Civil List Revenues.

"G. R."

March 21. The House having resolved itself into a committee on the above Message,

Mr. *Pitt* solicited the attention of the House to a proposal which would, doubtless, meet a general concurrence, from the very high esteem in which the learned judge, on whose behalf it came, was universally considered from his uncommon talents and distinguished integrity. Sir John Skynner, late Chief Baron of the Exchequer, was now in an advanced period of life. The state of his health rendered it necessary for him to withdraw his services from that situation which he had so long and so eminently sustained; but the manner in which he did it, corresponded fully with the propriety of his general conduct. Having so ably filled this arduous post, he resigned on terms of such unprecedented liberality as was worthy of imitation, and should be remembered with his merits. Mr. Pitt now moved, "That the chairman be directed to move the House, that leave be given to bring in a Bill to enable his Majesty to grant a certain annuity to sir John Skynner, knight, late Lord Chief Baron of his Majesty's Court of Exchequer, in consideration of his diligent and meritorious services, and of his faithful and upright conduct in the execution of that office."

Mr. *Burke* said, that having so frequently interfered in matters of supply, it might not be superfluous in him to observe, that there never came a proposal for a grant on better principles of acknowledged service and merit than the present; for, never was an office so exalted and laborious, filled with more diligence and integrity, and resigned with more dignity.

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He concluded with seconding the motion, which was carried unanimously.

Debate on Mr. Dempster's Motion for a Bill to explain and amend the East India Judicature Act.] March 19. Mr. *Dempster* begged leave to fix, for some moments, the attention of the House to what he considered as most important defects in the East India Acts of 1786. He contended, that as trials by jury were the birth-right of every British subject, no man, no assembly had any right to take away such a privilege, unless by the consent, and on the application of the parties themselves; and he declared it to be no justification whatever for that House to assert, that it gave the parties so disfranchised a better thing in lieu of that which they took away. He reprobated the ground of necessity as a plea for the abolition of trial by jury in the case in question, and asserted, that no such necessity could be proved to have existed; the only two East India causes, of late years tried, having been decided by a jury, and these were the case of the Armenians against governor Verelst, and the case of lord Pigot; in the former, large damages had been obtained; and in the latter, damages had also been given. Of the competency of Juries to try these causes, no doubt had been suggested, and the issue proved that they were perfectly competent for the purpose. So far from experience authorizing the assertion that it was on the ground of absolute necessity that the British subjects in India were deprived of their right to trial by jury, experience had established the very reverse of the assertion. Having argued the point, he proceeded to mention the other particulars in which it would, in his opinion, be proper to alter the last act; and first, he stated the extension of the judicature instituted in Bengal to Madras. The institution of the Supreme Court of Judicature, by separating the executive from the judicial departments, had been attended with the happiest consequences to the whole province of Bengal, and to the town of Calcutta more especially; and therefore he saw no reason why the same essential benefits might not be extended to Madras, where, he had no manner of doubt, the institution of a Supreme Court would prove eminently useful. A third regulation necessary, was one respecting the judges of that Supreme Court, whose vacancy ought to be supplied, whenever a vacancy happened, whether temporary or permanent, without delay. The reason for this was, that ever since the recall of sir Elijah Impey, the whole weight of the business of the Supreme Court had fallen on the shoulders of a single judge. A fourth alteration would be the total repeal of a clause, authorizing the governor-general to seize any person merely suspected of holding any correspondence with any princes, rajahs, zemindars, or governors of factories, or any correspondence detrimental to the general interest of the Company. Mr. Dempster read this clause to the House, to show the extensive wording of it, and the mischiefs it might lead to, and said it was wholly subversive of the Habeas Corpus Act, and that he would no more give his consent to such a law, than to a law legalizing impressing; on the contrary, he saw not why a Habeas Corpus Act might not be passed to have operation in India. After stating these and other particulars concerning the judicial parts of the acts, he came to the political part, and declared, he thought some alteration might there be made much to the security of the liberties of the British subjects in India, and equally to the advantage of the Company. It was a maxim, not to be controverted, that it was impossible for that government to be a good one, in which the people were not allowed to have any share. The government of India, while the affairs managed there were merely the affairs of a trading company, might be sufficiently well conducted by a governor and council; but the case was widely different in the government of an empire. He was of opinion, that the change of circumstances in India pointed out the necessity for a change of government, and that a much better government than the present might be successfully adopted. Suppose, for instance, a government in the nature of a vice-royalty were instituted, and a viceroy was to be appointed, with a privy council to advise with in matters of government; he might also have a legislative council, and something like representation be given to India, as the capital towns and districts might be empowered to elect and send deputies. Such a house of representation might be empowered to receive petitions from the natives, and to grant redress. That would give the natives a degree of confidence in the British Government, hitherto unknown in India. He

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complained of the clause of the existing Act taking away from the Company the right of compounding with their servants, when in arrear, or under censure. He also proposed to abolish all monopolies, particularly that of opium, declaring that he had ample proof of the injurious tendency of that monopoly. In conclusion Mr. Dempster moved, "That an Act, made in the 24th of his present Majesty, intituled, 'An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies,' might be read;" and the same was read accordingly.—He then moved, "That an Act, made in the last session, intituled, 'An Act for the farther regulation of the trial of persons accused of certain offences committed in the East Indies, for repealing so much of an Act, made in the 24th of his present Majesty, intituled, 'An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies,' as requires the servants of the East India Company to deliver inventories of their estates and effects; for rendering the laws more effectual against persons unlawfully resorting to the East Indies; and for the more easy proof in certain cases of deeds and writings executed in Great Britain or India,' might be read;" and the same being read accordingly, he next moved, "That leave be given to bring in a Bill to explain and amend the said Acts."

Mr. *Francis* begged leave to state to the House certain objections and difficulties arising out of the Bills themselves, and which he had on a former occasion mentioned to the learned gentleman over against him, but had received no answer to them. He had before asked, whether a jury was not capable, or could not be made capable of trying acts of extortion, or other misdemeanors, committed in India? but no learned gentleman had ventured to affirm, that a jury neither was capable, nor by any means could be made capable. The question was important, since nothing short of that affirmation could support the institution of the new tribunal, which was said to be founded on absolute necessity, and to admit of no alternative. When he had first put this question, he had grounded it on the reason of the case: but he came there armed with another sort of authority, the authority of the Act of 1786, the present existing law, which admitted the fundamental capacity of juries, which left the opinion, and gave it to the prosecutor, viz. to the Attorney-general, who was expressly enabled by the Act to try any of the causes as he thought proper, either in the Court of King's-bench, or before the new tribunal. The supposed incompetence of juries was therefore given up. It was, however, a dangerous power to be left with the prosecutor, as it was neither more nor less than a power to allow or take away his fellow-subject's right to be tried by his country. He asked by what principle was the Attorney-general to be guided in preferring one tribunal to another? How was he to distinguish the cases that were fit for the King's-bench from those that were fit for the new tribunal? Was the new judicature only to be resorted to in cases of special difficulty or importance? If so, the consequence was absurd. In cases of inferior difficulty or magnitude, they tried in the Court of King's-bench; and then the party, if he thought himself injured, might have various remedies against error in the proceedings, or in the judgment, or even against the verdict, by applying for a new trial: whereas if the case were specially difficult or important, they carried it to a tribunal whose judgment would be final and conclusive; since, though there was a right of moving the cause by appeal, or by writ of error from the Court of King's-bench, there was no right of appeal whatever from the new tribunal. Another fault he had to find with the new judicature was, that it was at once original and final, which was of itself contrary to the principles of English law; and they made it so in cases, the difficulty and importance of which were most likely to perplex the judgment of the Court, and which particularly required that the judgment should be open to re-consideration in some higher tribunal. Mr. Francis declared, that he wished to know whether the institution of a court, with original and final jurisdiction, was conformable to the principles of English jurisprudence; and he called upon the gentlemen of the law to declare themselves explicitly. The authors of the measure, he said, had seen the absurdity and danger of leaving the judgment to be determined by four persons out of seven,

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and had therefore increased the number to ten; but with that increase, in order to obtain a judgment, they had introduced a new and dangerous principle of decision, unknown in the administration of justice in England, viz. by a casting voice; that was, they had borrowed the principle of decision which belonged to a deliberative, or popular assembly, and carried it into a court of justice. If judgment was to be given by a majority, he contended that it ought to be a real, and not a fictitious majority, because nothing could be more evident than that no judgment should be given but by a real preponderance of opinions; whereas a casting voice was mere power, and power had nothing to do with judgment: power belonged only to execution; it was executive, and not judicial. This was, he said, so true and acknowledged a principle, that if in any of the courts in Westminster-hall the judges were equally divided, there could be no judgment; in that case the laws supposed a person in possession of an equality of opinions on each side, and could have no motive for saying that either of those equal weights should prevail against the other. Mr. Francis declared, he wished to see these various difficulties cleared up, and that a Bill of such importance should not be confirmed without explanation or defence. The very great alterations they had made in the first Bill showed that the authors of it were far from infallible: they had, when the Bill of 1784 was first introduced, declared it to be a perfect measure: they had nevertheless altered it materially in 1786; perhaps, therefore, it might appear that the second Bill was as imperfect as the first had been confessed to be. In their mind it was more imperfect, and instead of removing former difficulties, it had produced a multitude of new ones. It persisted in the conclusion after the premises were abandoned. At first it introduced a new and dangerous innovation upon the ground of pretended necessity, and it now adhered to the innovation, when the whole ground of necessity was renounced and given up; for these reasons, he seconded the motion for a new Bill, in the terms in which it was drawn; though he meant not to pledge himself to support, to their full extent, all the arguments of the hon. mover.

The *Solicitor General* remarked, that the two cases alluded to, had long ago satisfied his mind, that a peculiar jurisdiction for the trial of misdemeanors committed in India was absolutely necessary, and that some years since all sides of the House seemed to be of that opinion. The case of the Armenians was certainly a very hard one on Mr. Verelst; and he, though counsel against him, thought his own case weak, for those persons had traded under English influence and connexion, in arms, ammunition, &c. to the prejudice of the Company, and perhaps of the state; no circumstances of any considerable ill usage appeared in bringing them from Oude, and a verdict of 9000*l.* damages was given against Mr. Verelst, which the Court considered very large, but thought it a delicate matter to set it aside, except in a very outrageous case. People's minds were inflamed against persons in power in India, and he doubted whether the new jurisdiction would have so very severely punished an offence against the law committed by Mr. Verelst, probably, as he thought, in the execution of his duty. With respect to lord Pigot's case, he observed, that all that part of it which respected previous conspiracy and corrupt design, in apprehending his person, which the House believed when they ordered the prosecution, neither was nor could be gone into, nor could any human powers of mind and body have enabled the jury, without sleep or refreshment, to have gone through it. The evidence filled two quarto volumes, which it would take a week to read and digest; and therefore the imprisonment of his person, without lawful cause, was the only question; and the defendants were punished in proportion to that, and that trial lasted very many hours. In such cases defendants laboured under great disadvantage, a court and jury were quite exhausted when their case came to be stated and proved, and half the jury, perhaps, asleep. Gentlemen had now sufficiently experienced the great intricacy and length of such cases; and could it be supposed that such cases were ever meant to be judged of by a jury, whose time of sitting in judgment was only so long as a man could fast and keep up his attention? That tribunal, the best ever devised for cases arising in a country which they themselves inhabit, and are acquainted with the motives which usually induce to act, or not act in particular ways—where they understand the cases which come before them from their own habits and experience—was but ill fitted for cases arising in a distant province, very particularly circumstanced,

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and involving considerations, of which the general run of jurymen must be ignorant. One gentleman had asked, by what rule was it possible for the prosecutor to settle whether he would go on in the King's-bench, or before the new tribunal? The answer was, that he would be guided by the magnitude, intricacy, and length of the case—if it was apparently such as required many days investigation, it would go to the special tribunal; if it was within the compass of the time allotted to a jury, prosecutors would let it be speedily concluded. A jury, instead of that which it was, would be a very bad institution, had it not been provided that they should not separate, but deliver, in their verdict, the genuine impression which the evidence alone made upon their minds. He had put it to gentlemen from India, whether they would choose a power of dispersing to be given to juries, and put it in their power to read pamphlets and newspapers, and converse in taverns or ale-houses, while their honour and property were at stake, and they had disapproved of that liberty. Nothing, then, was left but to draft that jury, which must in some cases have the power of separating, from among those who must be presumed more fit to be trusted with it than the common run of mankind. With regard to the assertion that all subjects are tried for misdemeanors strictly by their peers, it certainly was not true; for the lords are tried for misdemeanors by common juries, as commoners are. It had been asked, was there such a thing as a criminal tribunal original and final? The gentleman who asked it could very easily answer, for he was going up to the House of Lords, whose tribunal was of this nature.

Mr. *Burke* declared, that he entertained a profound respect for the information which the hon. and learned gentleman had it in his power to give, and he felt that great weight was due to his opinion. He could not, however, but observe, that poor, ignorant, unlettered laymen, like himself, had not, lately at least, derived any assistance from the hon. and learned gentleman in conducting the important prosecution in which they had been for some time engaged, and that the House had not paid any very great deference to the advice and judgment of the hon. and learned gentleman, when he had declared himself adverse to their proceedings against Mr. Hastings. Mr. Burke animadverted on the Solicitor-general's declaration, that a common jury, composed of common individuals, were not competent to decide upon cases of delinquency in India, likely to arise in future. He said, that much as he respected that House, he could not conceive, that the instant any man entered the doors of it, he became, as it were, gifted with a degree of knowledge and a fund of liberality superior to that possessed by people without doors. He hoped that, generally speaking, that House represented the understandings, as well as the individuals of the mass of people, and that there was nothing so distinguished in the intellects of members of Parliament, as to mark them out from their constituents, as the only proper persons to be trusted with the reputation and property of those who might hereafter be brought to trial for any part of their conduct in India. The hon. and learned gentleman, whom, from what he had said, he should hold himself entitled to consider as the author of the Act of 1786, had rested the justification of the Bill on experience, and not on the loose grounds of speculation and experiment. That was undoubtedly the true ground for any great measure to stand upon; but he should examine a little how far the experience referred to would warrant the inferences which the hon. and learned gentleman had drawn from it. With regard, then, to the trials alluded to by the hon. and learned gentleman; that between the Armenians and governor Verelst, and that in the case of the seizure of lord Pigot, they rather, in his mind, proved the competency of juries to try East India causes than any thing else. In the former, large damages (9000*l.*) had been given: but then, perhaps, as the hon. and learned gentleman had found so much fault with the verdict, the jury were incompetent, and had mistaken the merits of the case. The judge also might have been equally mistaken in his declaration to the jury. Supposing that, however, to have been the fact, where would the hon. and learned gentleman look for competency to decide? Under the new Bill, men surely not more competent than a judge sitting in his own court in Westminster-hall, were to form the tribunal. Let the hon. and learned gentleman recollect, however, that if there really was any ground to complain of an improper decision in the cause of the Armenians and governor Verelst, that cause was a civil action for damages, and all civil ac-

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tions for damages were left exactly where they were before, by the existing Act of 1786. The whole of the argument, therefore, which could be drawn out of the cause of governor Verelst, fell to the ground, and was perfectly inapplicable, as a justification of the new judicature. With regard to the other cause mentioned by the hon. and learned gentleman, that in respect to lord Pigot, it was clearly a criminal case, but he had never heard the verdict complained of. The public had, indeed, complained of the judgment, and that on the ground of the inadequate fine levied. As the hon. and learned gentleman had thought proper to infer, that the jury were half asleep before the trial was brought to a conclusion, he (Mr. Burke) trusted that it would not be straining the point too violently to suppose that the Act of 1786 had now a new feature. It was a specific against somnolency. It spoke to that House in clear and audible language. It said, "Sleep no more," in such emphatic terms, that from thenceforward he should imagine that such a phænomenon as a sleeping member of parliament would never be seen. He could scarcely now credit what his eyes had formerly beheld, and doubted whether he had been himself awake, when he had seen one member nodding in one part of the House, a second lolling at his length in sound but not quite silent somnolency in another, and a third, a fourth, a fifth, and so on, fast asleep in others. Whatever had happened, the whole House was hereafter to keep wide awake, let the hour of debate be protracted ever so long.

Mr. Burke next resumed his inquiry into the great difference between members of Parliament and peers, and the individuals that usually composed the juries who heard and determined in the courts below. The hon. and learned gentleman, he observed, had said, that men who went to ale-houses and read pamphlets, were not fit to decide on cases of Indian delinquency. To be sure, members of parliament and peers did not usually go much to ale-houses, but then they went to taverns and coffee-houses; they drank wine at clubs of various descriptions: but generous wine, and good coffee, he supposed, were deemed excellent qualifications for the mind of a man likely to become a member of the new tribunal. Wine enlarged the understanding, and unlocked the dormant faculties of the soul. It made men liberal, and it made them eloquent. Coffee, on the other hand, cleared the head and purified the judgment. It must consequently enable men to see with precision and decide with wisdom. There was, therefore, something in the argument, that those who drank wine and coffee were better qualified to judge and determine than those who drank punch and beer, and such like beverage. But then the hon. and learned gentleman had stated another objection, and that was this: men who read pamphlets were not fit to sit as jurymen in causes of Indian delinquency. Pythagoras said to his disciples, 'abstine à verbis;' but he had never heard of such maxims as 'abstine à pennis,' or 'abstine à pamphlatis;' and he was afraid, that, so far from members of parliament being in that respect properly qualified, the only sure way to get a tribunal so as to meet the hon. and learned gentleman's definition, would be to choose no persons members but such as could neither write nor read.

Mr. Burke contended, that the new judicature was infinitely the worst sort of jury that could be instituted, because it had one of the greatest objections belonging to it that could belong to any panel. The members of it were nominated by the minister, and it was known, soon after the commencement of every session, who they were. This, as gentlemen would see, must expose them to applications of every sort, and they all knew, as members, what sort of applications were made to them when personal questions were likely to be agitated in that House. A jury in the courts below, on the contrary, were unknown till the time they were sworn, and, for a variety of reasons, were not liable to previous application from the parties in whose cause they were to decide. He pressed this upon the consideration of the House, as a matter by no means immaterial or unimportant. He next took notice of the clause in the Act of 1786, taking away from the Company all right to compound causes with their servants, and enlarged upon it as a matter highly prejudicial to the Company's interests, declaring that he looked upon compounding, in many cases that might possibly occur, as nothing more than taking five shillings in the pound, which, where the debt was large, was often a recovery of a considerable sum, and which, by being disallowed in future, could not but prove the cause of great loss to the

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Company. He mentioned Mr. Arnot's book on the criminal laws of Scotland, in terms of great commendation, and said, he doubted not but that a right hon. and learned gentleman opposite to him (Mr. Dundas) had read it. In that book it was recorded, that the right hon. gentleman's father or grandfather was the man to whom his country stood indebted for the restoration of the inestimable right to trial by jury. That was an honour of which any man might be proud, and he hoped the right hon. gentleman did not mean to follow the example of those who lavish away their family estates, and idly abandon his family honour, by being himself the instrument of taking away the right to trial by jury from the British subjects in India.

Sir *James Johnstone* said, that he should be always glad to see some plan enforced to bring East India delinquents to justice, which he was sure could not be done in the ordinary course of trial by jury; and he believed the East did not abound more in riches than it did in crimes. He was however as much a friend to juries as any gentleman, and joined most heartily in the praises bestowed upon Mr. Dundas, of Arniston, for his good intentions in having been instrumental in introducing the use of juries into Scotland; but it would, he said, have been still more to that gentleman's honour, if he had endeavoured to have adhered more closely to the plan of juries in England. Juries in Scotland were a grievance rather than a blessing. The sheriff chose 45 men not confined to any description, nor possessed of any qualification, but taken wherever he could find them, and out of those the judge chose 15, the majority of whom determined, and those were the *legales homines* of Scotland: so that it was easy for any judge or sheriff to convict whomsoever they pleased of whatever crimes they chose. He believed he was himself not the most unpopular man in his county in Scotland, and yet he believed a good sheriff and a wise judge would be able to find eight men that should convict him of crimes that he was incapable of committing. Many people traduced the Scotch nation for their slaving principles—but, said sir James, "give us English laws, and we will become Englishmen."

Mr. *Pitt* declared, that he could not suffer the statement of Mr. Burke on a particular fact to pass unnoticed. The right hon. gentleman had stated, that those members of the judicature who were chosen out of that House, were, strictly speaking, appointed by the minister. If the right hon. gentleman meant generally to insinuate, that, in every act of the House, the influence of the minister was prevalent, he should not attempt to enter into the question, nor did he think such an insinuation decent or respectful to Parliament. But, with respect to the particular object immediately in the right hon. gentleman's contemplation, he wished the House to recollect for a moment what were the real circumstances of the case, before they suffered themselves to be led astray by the right hon. gentleman's misrepresentations. The fact was, that that House had no other interference in the choice of members for the East India Judicature, than each gentleman furnishing a certain list of names, and every name that was found upon twenty of those lists was sent in one general list to the judges, who reduced that general list to the proper number by ballot; whence it followed, that so far from the minister's having the absolute power of appointing the members of the judicature, it was possible that so small a minority as twenty might have the nomination.

Mr. *Burke* said, that he could not avoid comparing the right hon. gentleman's manner of correcting him, to his having put his hand into a sack of grain, and produced a sample, to determine by that the goodness of the whole. But the authority of the right hon. gentleman alone, lent his contradiction weight. In effect, the judicature was chosen by the majority, and the majority only. Mr. Burke again resumed his argument against the Bill of 1786; but on the gentlemen of the Treasury-bench side of the House crying out 'Spoke, spoke,' he said he meant to move a new question, the question of adjournment. He proceeded to justify the above question, by declaring that the House in its present temper were not fit to decide on so important a question as that then under consideration. After a few more words to that effect, he again fell into argument on the subject of the original motion, declaring, that the deciding a judgment by a casting vote was in the highest degree indecent and improper.

Sir *Richard Sutton* said, that he must speak to order, and remonstrate against the right hon. gentleman's being suffered to proceed in so irregular a manner.

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The *Speaker* desired Mr. Burke to confine himself to explanation merely; or if he meant to move the question of adjournment, to point his argument to that motion.

Mr. *Fox* vindicated the privilege which his right hon. friend had of moving the adjournment. With regard to the objection made against his not having spoken agreeably to order, certainly the same objection was against any other member who had not observed the same rule precisely. He admitted likewise, that if one gentleman conformed to order, it was equally the duty of every other.

The *Speaker* now said, Heaven forbid that any thing which came from the chair should be partially directed against one gentleman, and not another under the same circumstances. The reason he had taken the liberty to observe what he did was, in consequence of the right hon. member having moved an adjournment of a question without having offered the least argument in its support. This he considered against the received rules of the House, and therefore he had taken the liberty to offer what he had done.

At length a violent coughing took place, upon which

Mr. *Burke* declared, that as what he had said could not be answered, so neither could it be coughed away. He bowed obedience to the chair, but he could wish that it might be understood that the maxim held good 'Summum jus summa injuria.' He added—I rise in support of the eternal principles of truth and justice, and those who cannot or dare not support them are endeavouring to cough them down. A violent cry of 'Order, order!' immediately took place, after which

Mr. *Dundas* said, he did not wonder, as the right hon. gentleman in so extraordinary a manner had insisted on his privilege of moving a question of adjournment, clearly in contradiction to the sense and feelings of the House, that the House should insist on its privilege of coughing. He was not the personal enemy of the right hon. gentleman; if he was, he should have wished him to have acted exactly as he had done that evening.

The question of adjournment was put, and negatived without a division. The original question was then put, and the House divided:

Tellers.

YEAS	Mr. Dempster - - -	21
	Lord Maitland - - -	
NOES	Mr. Steele - - - -	128
	Mr. Boughton Rouse -	

So it passed in the negative.

Debate in the Commons on a Motion for turning the Consolidation Bill into two Bills.] March 21. Mr. *Bastard* rose, to make a motion for dividing the Consolidation Bill into two bills, the one to contain the clause relative to the Commercial Treaty, the other to be confined wholly to the regulations respecting the consolidation of the duties of Custom and Excise. He remarked, that, reluctant as he should be to impede the measures of Administration, he was relieved from that embarrassment, by having given his support to the two distinct measures comprehended in the Bill; and he had no motive for bringing forward the motion which he meant to submit to the House, but the consideration that it was unconstitutional to blend two separate objects in one bill, and by that means to deprive members of their undoubted right to give their vote distinctly on each distinct measure. He said, that the principle of putting the part of the Bill respecting the Commercial Treaty under convoy of the part of the Bill relating to the consolidation of duties was a principle which ought, in his mind, never to be adopted by a minister, nor submitted to by that House, because it held out a most pernicious example of coupling considerations that ought to be kept separate. In the present case, the consolidation of duties was a measure universally approved; but respecting the Commercial Treaty with France, there certainly was some difference of opinion: gentlemen ought, therefore, to be afforded an opportunity of giving a distinct vote upon each subject, and it was almost treachery to their constituents to submit to the evasion of such separate and distinct vote, by suffering the two objects to be put into one. If it were now submitted to, a precedent would be established, which might be carried farther in future, and the most atrocious measure might be conducted through, under cover of a good and favourite measure, with which it might be coupled. He was far from meaning to insinuate, that the Chancellor of the Exchequer had been actuated by any improper motive, in putting the two objects into one bill; on the contrary, he was ready to admit that the reasons alleged in debate, the other day, were the true reasons; but he was far from thinking them

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sufficiently strong to justify a deprivation of the privileges of the members of that House, who had not only a right, but were in duty bound to vote distinctly upon each distinct object of debate. He asked, how were the constituent electors of Great Britain to judge of the conduct of their representatives, or to know whether they were worthy again to be sent to Parliament, but by their distinct votes? and how could they tell whether their votes, in the present instance, if the Bill were suffered to remain undivided, were governed by their approbation of the French Treaty, or their approbation of the Consolidated Duties? He concluded with moving, "That it be an instruction to the committee of the whole House, to whom the Bill for repealing the several duties of Customs and Excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the public revenue; and for permitting the importation of certain goods, wares, and merchandize, the product or manufacture of the European dominions of the French King, within this kingdom, should be referred; that they have power to turn the said Bill into two Bills, if they think fit."

Sir *William Lemon* seconded the motion, and added that his hon. friend had so fully stated his reasons for bringing it forward, that little remained for him to add on the occasion. He had no motive for supporting the motion, but an idea that the members of that House ought not to be deprived of their constitutional right of giving a separate and distinct vote on each separate and distinct object of deliberation. He had been a supporter of both the measures, and it was therefore indifferent to him whether they were carried into effect by one or by two bills; but he thought, as there had been a difference of opinion respecting the French Treaty, that gentlemen ought to be allowed to give a distinct negative to that measure; which they were now deprived of doing, on account of its being coupled with the consolidation of duties, which was universally approved. Sir William professed himself to be a friend to the Commercial Treaty, which he conceived he had a right to say met with the approbation of the country, since no objection had been made to it without doors.

Mr. *Vyner* could not join with the hon. baronet in praising the Commercial Treaty, notwithstanding his intention to support the present motion. Having objected to every resolution proposed respecting it, it was impossible for him to take the same ground with the hon. baronet, and declare, that he should vote for the motion because he approved of the French Treaty. He considered the Treaty as a measure highly objectionable, the effect of which was our breaking with all our old allies, and connecting ourselves with a new ally; and that a power which always had been hostile to this country. That alone was a serious ground of objection, and sufficient in his mind to warrant that House in putting a negative upon that part of the Bill. But another objection against the Commercial Treaty and the Consolidation of Duties being blended in one Bill was, that the Treaty was expressly to continue only twelve years, whereas the Consolidation of Duties was general and unlimited. With regard to the Treaty continuing for twelve years, he had no such expectation; he supposed it would be adhered to on the part of France just as long as it would serve for France to get a knowledge of all our manufactures, and to draw over our artificers and manufacturers, and then, at a convenient time for themselves, they would break it.

Mr. *Pitt* said, that as the present was by no means a fit stage for debating the principle of the French Treaty, he should take no notice of any thing that had fallen from the hon. gentleman who spoke last, as the whole of his speech was confined to arguments against that measure, and contained nothing that could apply to the motion under discussion. With regard to the hon. gentleman who had made, and the hon. baronet who had seconded the motion, and who, he was convinced, had done so from no uncandid or indirect motive, having each of them fully expressed their approbation of both measures in agitation, he was convinced that their only object was to have those two measures carried into execution in a manner most consistent with the forms of Parliament, and the true principle of the constitution. The hon. mover had done him but justice in acquitting him of any disingenuous intention in coupling the two projects in one Bill; for, in fact, instead of securing the accomplishment of the more objectionable, by connecting it with the less, he ran the risk of losing that which, perhaps, every gentleman approved, by uniting with it one from which they were averse; for it was certainly more to be apprehended

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that gentlemen would oppose a measure, one part of it being disagreeable to them, and the other not so, than that they should give their support to one that they disliked, in order to insure one to which singly there could be no possible objection. And this was an argument by which he wished gentlemen would regulate their practice; for, if any gentleman felt objections to the Treaty, although a friend to the Consolidation of Customs, or, on the contrary, if any gentleman, though approving the Treaty, was yet averse to the Consolidation, it was in that case the duty of every such gentleman to vote against both, coupled as they were, because, by rejecting both, the House would not be precluded from taking up again separately, and by itself, that which was not liable to objection. He must, however, combat one position laid down by both those hon. members, that it was unparliamentary and unconstitutional for any two subjects to be tacked together in one bill; for though he admitted, that to submit any two propositions in one and the same resolution to the House, such propositions differing in spirit and effect essentially from each other, and liable to meet with different sentiments and opinions from the House, would be highly improper and objectionable; yet in a bill consisting of the subject matter and result of several separate resolutions, there must almost always necessarily be included variety of matter. To illustrate this statement, he observed, that even if the motion were carried, yet the principle laid down by the hon. gentleman would by no means be established, for still the Bill for consolidating the customs must unavoidably contain as many different provisions as there were different articles of importation, for every one of them was to be the subject of a separate and new regulation; nay, it was not merely to contain a great variety of different duties, but the very principles of those duties were, in many instances, to be different, particularly in the case of *ad valorem* duties. Would the hon. gentleman, then, wish to to have the Bill for the consolidation of the Customs, divided into as many separate bills as there were articles in the schedule of articles of importation? for unless that were so be done, the principle which had been now attempted to be laid down, must be departed from; and the following such a principle would so multiply and embarrass the business, that it would not only be difficult, but also impracticable to proceed in it. Having thus contended that the principle did not, and could not possibly exist, he had nothing more to do than to show the two hon. gentlemen, that by adopting it at present, the very measures of which they had expressed their joint approbation, would, so far from being promoted, become very much retarded, and possibly defeated. He made several suppositions of the different methods by which the two plans could be carried into effect separately—first, he supposed that the Treaty was to have the priority, and if that were the case, he observed, there must be made a very considerable reduction in the duties on French commodities, and those duties being already appropriated to particular funds, for paying the interest of the public debt, such funds must necessarily be diminished, by reducing the duties of which they were composed, without providing any equivalent to answer the purposes for which the several appropriations had been made. On the contrary, he put the case, that the plan of consolidation should be first carried into execution—the consequence then would be, that in that measure it would be absolutely necessary to regulate the duties on French commodities, as well as on others; which would be making regulations, before the grounds of necessity on which such regulations were to be made had been enacted.

Mr. *Fox* admitted, that there was something more of difficulty now, than there would have been at first, in dividing the Bill, but that difficulty the right hon. gentleman had himself created. The only point in which he saw difficulty, was in the duties upon such French goods as were not enumerated in the tariff, but he stated how that might be managed. He then proceeded to argue upon the impropriety of having the two objects blended in one bill, and said, he not only perfectly agreed with the hon. mover, that individual members of parliament had a right to give a distinct and separate vote on each distinct and separate subject of debate and legislation, but what was of still more importance, that that House had a right to decide upon each subject that came before them separately and distinctly; and the putting the Commercial Treaty and the Consolidation of Duties into one Bill, clearly deprived the House of that right. Mr. Fox contended against the position, that instead of curtailing the

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powers of negativing the Commercial Treaty, by joining it to the Consolidation of Duties, it added to them, and put each measure to a double risk. Not only had their constituents a right to know the reasons that governed their votes upon each separate and distinct measure that came under consideration in the House, but they as representatives had a right that their reasons for voting upon every distinct measure should be known; and in the present case it was impossible for their reasons to go to their constituents. They might, he said, be called upon to vote one day for the Bill, on account of the Consolidation of Duties being approved, and the next day to vote against it, on account of the Commercial Treaty being disapproved. He spoke also of the difficulty in which the House of Lords would be put by the two objects being blended together in one bill; and said, instead of affording their lordships reason to complain of the Commons for having narrowed their grounds both of debate and of voting, the House ought studiously to avoid giving cause for such complaint. The right hon. gentleman had laid great stress on the delay that separating the Bill, and dividing it into two, would occasion, and had at the same time admitted, that if it had been originially divided into two bills, they might by that time have got to the length they had arrived at. With regard to the delay of a fortnight, he saw no force in that, as an objection to dividing the Bills then; and in his mind, a degree of precipitation bordering upon indecency had been used in passing the resolutions.

Mr. *W. W. Grenville* observed, that the right hon. gentleman who spoke last, had been himself obliged to confess, that there would be a difficulty in separating the Bill, on account of the duties on goods not stated in the tariff; and maintained, that the difficulty alluded to, was of itself a sufficient answer to all that had been urged by the right hon. gentleman, as the whole line of his argument had been inconsistent with the admission of that difficulty. He contended, that Mr. Fox had not reasoned fairly upon what had been said by his right hon. friend, who clearly demonstrated, that the Bill could not be divided into two without manifest inconvenience, and even the risk of the Consolidation of Duties. The right hon. gentleman said, that his right hon. friend had laid great stress on the argument of delay. Now, he did not recollect that his right hon. friend had laid any stress whatever on delay; certain he was, no improper precipitation had been used in any part of the business of the Commercial Treaty. With regard to the Resolutions that the House had come to, it was essentially necessary, that with all reasonable dispatch the public should be made acquainted with the sentiments of Parliament respecting the Treaty, and therefore the Resolutions had been early moved; but he appealed to the House, whether they had not had a full opportunity of discussing every one of them, and considering them in all their bearings. With respect to the House of Lords, he saw no ground for arguing, that putting the two objects into one Bill, would at all narrow their right of debating or voting. Had the Bills been disinct, each of them would have been a money bill, and consequently the Lords could only have rejected or passed them. But how could it be contended that they had any reason to complain, when by having sent the Resolutions of that House up to the Lords, their lordships had been admitted to a full opportunity of discussing all the topics the Resolutions referred to, and had done so notoriously. They therefore had disposed of their opinions as to the particulars of the Commercial Treaty, and might still reject the whole of the Bill, if they thought proper. Mr. Grenville concluded with declaring, that he should oppose the motion, as he was clearly convinced that it would be a most inconvenient, if not an impracticable measure to separate the Bill and divide it into two.

Sir *Grey Cooper* observed, that as he had some short time since moved a question substantially the same as the present, and had given the reasons for his opinion on the matter, he would not have presumed to speak again on the subject, if his mind did not continue to be impressed with the clearest conviction, that the keeping the Bill for rendering the Commercial Treaty with France effectual, united, and incorporated with the Consolidation Bill, was a dangerous breach of the forms and rules established by uniform practice, not only for the regularity and order of the proceedings of that House, but in the intercourse between the two Houses in their legislative capacities, and particularly in the mode of passing bills. But the right hon. gentleman had put his defence of the measure of joining those two Bills together (which he admitted,

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ought, if possible to have been kept separate,) upon the extreme difficulty and inconvenience there would have been in adjusting the Consolidation Bill to the French Treaty. To that he answered, that arguments from inconvenience could not justify the departure from the rules and orders of parliamentary proceeding in passing bills. But he conceived, that if the Consolidation Bill had been first passed, (which might have been easily accomplished since the 26th of February last) and all the various duties had been revoked, and all the appropriations re-adjusted to the new plan, not only the tariff for the French Treaty, but the new book of rates for carrying the seventh Article into execution, might have been established by a separate Bill for rendering the French Treaty effectual; and there certainly ought to be a separate book of rates for duties which were to last only for twelve years, but which, during that period, might have been so formed as not to embarrass the execution of the general Consolidation Bill. He cited several precedents from the Journals of cases from 1680 to 1774, to prove, that whenever two or more distinct and independent matters were united in one bill, the members declared, that "they could vote for one part, but not for the other." Motions for instructions, similar to that proposed by the hon. member, had never in any instance been refused. He challenged any master of order to produce one precedent of such a refusal. He said, that the most important part of the question was, that by this departure from the established rules of proceeding between the two Houses in the mode of passing bills, the most essential privileges of that House, and the constitutional rights of the people, might be endangered: for instance, the Commons were entitled to insist, that the Lords should make no alteration whatsoever in a bill of supply, or for the imposition of duties; but that House had never been so absurd as to deny the privilege of that branch of the Legislature, to give their dissent to every proposition which they should disapprove: when they sent up to the Lords a bill consisting of two distinct and independent propositions, or in other words, when they tacked the French Treaty to the Bill for simplifying public accounts, and consolidating the duties, they did in effect control the privilege of their free dissent, and compelled them to take all or none. In the year 1799, when a similar attempt was made, by sending up to the Lords a Bill for granting an aid to his Majesty by sale of forfeited estates in Ireland, and by a land-tax in England, the Lords expressed their resentment in arguments of great weight, entered on their Journals, in which they insisted, at a conference, that such proceedings were destructive of the freedom of debate, injurious to the privileges of the Peers, and dangerous to the Constitution; and the Lord Chancellor, in his speech to both Houses in 1678, observed, that tacking together several independent matters in one bill, must tend to provoke the other branches of the Legislature to depart from those rules to which the long-established forms of Parliament had confined them, and could have no other effect than finally to introduce disorder and confusion. With respect to the proceedings in the Committee which was instituted on the 6th of February last, to take into consideration so much of the King's Speech as related to the simplifying the public accounts, he found, to his surprise, upon looking over the schedule of the duties of customs, that new taxes had been imposed by more than one hundred resolutions upon timber for shipbuilding, deals, battens, and staves from any part of Europe, to the amount of one farthing for each gallon which they contained; and he could confidently assert, that the mode of proceeding in laying those additional duties was informal and irregular, and contrary to the letter and spirit of the standing order in 1667, respecting the composition of new duties.

Mr. *Pitt* answered, that he could not let a charge brought against him by so respectable an authority escape unnoticed, and the more especially as he was persuaded, that he could easily prove that the hon. baronet was mistaken. The hon. baronet had declared that he spoke with more than usual confidence when he charged him with having, without notice and by surprise, introduced the regulation of duties upon various articles into the Bill; but he was in the recollection of the House, whether he had not, in his opening of the subject of the Consolidation of Duties, expressly stated, that it would be necessary to regulate certain duties beyond the conversion of the fractions into integral parts, and that when he came to such duties, he would not fail to call the attention of the House to the subject. At the same time he had particularized timber as one of the articles upon which the

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taxes would be to be regulated; and the hon. member for Hull had at the time risen in his place, and declared, that he should have something to say upon that subject, when it was under consideration: in compliance with his notice, he had afterwards fully stated to the Committee the grounds upon which the new regulations were made, and it had then undergone discussion. The hon. baronet had talked of the new duty being about a farthing a gallon; measuring by the gallon was not very usually a mode of measuring timber; but the fact was, that the regulated duties referred to timber, and the farthing a gallon had been mentioned as the effect which the laying additional duties on staves would have upon the spirits imported in pipes and hogsheads.

Sir *Grey Cooper* observed, that notwithstanding what had fallen from the right hon. gentleman with such an air of triumph, he should not hesitate to assert, with all his former well-grounded confidence, that the voting without a previous instruction to the Committee, additional duties on several articles of wood imported for different purposes from Russia and Prussia, and other places in Europe, was an informal and irregular parliamentary proceeding. With regard to the mode of measuring timber by the gallon, the ridicule was at once unworthy and unmerited; for every gentleman must know, that he meant to allude to spirits, when he said, a farthing a gallon would be the difference made by the new regulation of duty on pipe staves, staves of hogsheads, and kilderkins.

Mr. *Martin* professed great confidence in the right hon. gentleman's good intentions, but said, that he should think meanly of himself, if he gave up his independence as a member of that House: he had supported the Commercial Treaty, because he conceived it to be a wise measure; but he should vote for the present motion, as he thought the arguments on which it had been rested extremely strong, and was not convinced that they were otherwise by any thing which he had that day heard from the Chancellor of the Exchequer.

Mr. *Bastard* said, that he was confirmed in his sense of the propriety of the motion, by the argument of the Chancellor of the Exchequer, since that right hon. gentleman had himself admitted, that the House had a right to give their distinct votes on each distnict measure: why, then, did the right hon. gentleman refuse to permit the House to exercise that right, which he admitted so clearly belonged to them? The freedom of voting was not less valuable than the freedom of debate, which the right hon. gentleman had himself said that House ought to enjoy.

The question being put, the House divided:

Tellers.

Yeas	Mr. Bastard - - - Lord Maitland - - -	65
Noes	Mr. Neville - - - - Mr. Steele - - - -	184

So it passed in the negative.

Debate in the Commons on the Articles of Charge against Mr. Hastings.] March 22. Mr. *Francis* begged leave to submit to the House a proposition, which he conceived would give facility to the public business, and meet with general approbation. It was respecting the examination of the witnesses relative to the charges against Mr. Hastings then before the House. There were certain material points in the charge, which he had particularly undertaken to bring before the Committee, viz. that concerning the revenues, which made it necessary to examine a few gentlemen. When the witnesses had last been at the bar, the attendance was extremely thin; the proposal therefore that he had to offer was, that instead of examining the witnesses at the bar of the House, they should be examined before a committee above stairs, and that that committee should be directed to report the evidence to the House.

Mr. *Dundas* observed, that there was one obvious objection to this proposal, which was, that a committee would necessarily be composed of a certain select number, whereas every individual member had a legal right to be present when the witnesses were examined, and to take part in the examination, if he thought proper, and, indeed, especially ought to be so in a criminal proceeding, on which the House was to decide as accusers. If by making it an open committee, this objection could be removed, perhaps the proposal might not be much resisted. Mr. Dundas said, that he would take the present opportunity to offer a few hints, which, without meaning to say any thing harsh to gentlemen on the other side, it became an indispensable duty to suggest to the House, relative to the proceeding in which they had been for some time engaged. He

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then remonstrated against the practice of calling for voluminous papers just a day or two before every new and separate charge was about to be opened. Such a custom must tend, not only to confuse gentlemen's minds, and keep them in continual labour, but had a very awkward appearance. Either, when the right hon. gentleman opposite made his charges first, he was satisfied that he was in possession of sufficient evidence to support them, or he was not. If he had been satisfied, why call for more papers just a day or two before every charge was to be opened? He would move, for the future, that no papers should be asked for, or granted, unless gentlemen came and stated, that upon a closer examination of the particular charge they had undertaken to move, they had discovered that certain links in the chain of evidence, necessary to support the proof of the facts stated in the charge, were wanting; and upon such an assertion made out to the satisfaction of the House, no gentleman would be so unreasonable as to refuse the granting of those papers. Another consideration which he wished to submit to gentlemen was, the state and situation of the business of the intended impeachment, and the period of the year. Every gentleman must, he conceived, be extremely desirous to have the impeachment go up to the Lords in sufficient time to have it put into a way of trial at least this session; and at any rate, it would, he should imagine, be disgraceful to that House, if they did not contrive to have done their part so far, as to have formed the articles of impeachment by the beginning of May, and to have enabled the Lords to proceed upon the trial in that month. He could not therefore help expressing his surprise, that the right hon. gentleman opposite had not moved to report the resolutions come to by the House, and also moved the necessary questions upon them, so that those professional persons, versant in the nature of legal evidence, and the practice in cases of criminal proceeding, whose assistance he presumed would naturally be looked to, might, while the committee were inquiring into such remaining charges as were meant to be brought forward, be at the same time going on in forming the articles of impeachment to be ultimately carried up to the Lords.

Mr. *Burke* thanked the right hon. gentleman for the propositions which he had made, and the very judicious observations with which he had accompanied them. He gratefully accepted the propositions, and would certainly adopt them; but the right hon. gentleman must permit him to say a few words on some parts of what he had urged. With regard to calling for papers, he was willing to agree to call for no more, but upon the condition suggested by the right hon. gentleman; and he could assure him, that he had not called for any in the course of the present session, or scarcely any, for the purpose of satisfying his own mind as to any one of the charges of the facts contained in them. His own mind had been long since completely satisfied; but he had called for them to satisfy the minds of others, and in order to remove doubts stated and suggested in debate upon the charges already heard. When, therefore, it happened to him that a paper would tend at one and the same time to elucidate passages and parts of any charge about to be opened to the committee, and to clear up and remove doubts that had been stated respecting any parts or passages of charges already examined into, he had thought it right to call for that paper; but he had never called for an unimportant paper, or unnecessarily put papers upon the table. With regard to the conduct of the impeachment, most certainly the aid of professional men, men versed equally in the law of parliament, and the law of evidence, must be obtained; for although he knew, from long experience, something of the law of parliament and had in the course of his life looked frequently into law books on different subjects, he meant not to trust the issue of a matter so important in every point of view, to so weak, uninformed, immature, and incompetent a head and understanding as his own. He had the utmost anxiety upon his mind, that the matter should go up to the Lords in a shape regular, complete, formal, and perfect; that the House should not be liable to sustain the disgrace of having sent up and prepared an impeachment every point of which did not *primâ facie* appear to be significant of the gravity, caution, and solemnity which ought to mark the conduct of the House of Commons in such an awful proceeding. Mr. Burke expatiated on this idea, and said, that his whole attention had long been engrossed by the subject, and that there was not on record a proceeding at all similar to which he had not adverted, and closely examined; and he could not but acknowledge, that scarcely any one

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of them appeared to him to have been managed with due attention, or rendered in any proportion so complete and perfect as, in his mind, it became the honour and dignity of that House to have made them. He mentioned some of the rights which had been claimed by that House on such occasions, and said, that although he should be very sorry that there should ultimately appear to be any real occasion to take advantage of them, yet he should hold it unwise, if, on the ensuing, or any other occasion, that House were entirely to abandon them. He mentioned one in particular, which former precedents justified, and that was, that the House should persist in its right of saying, at the bar of the House of Lords, "This article the House of Commons does not insist on," and to exercise that right as often as occasion should render it necessary or discreet.

Mr. *Francis* observed, that one objection stated by Mr. Dundas, was, in speculation and theory, so obvious, that it appeared to be unanswerable; but compare it with the fact, and it would then sink to nothing. The right hon. gentleman had said, that every member had a legal right to be present at the examination of witnesses at the bar, and to take part in it, if he thought proper; and that appointing a committee would narrow that right, and limit it to the number of members. In speculation and theory, the assertion was true; but how stood the fact? In the examination of witnesses on the preceding Tuesday, scarcely more than eight members were present the whole day. He wished, therefore, to create an attendance; and the committee which he had meant to propose, would, he was persuaded, attend their duty. The remaining six witnesses would take up but a very short time to examine, as he had not above six or seven questions to put to each.

The *Speaker* confirmed the fact, as to the smallness of the numbur of members present on Tuesday.

Mr. *Pitt* declared, that he perfectly coincided with his right hon. friend (Mr. Dundas); and then proceeded to corroborate that gentleman's argument, and having substantiated all that had fallen from him on the subject of written evidence, he applied the same reasoning to prove the impropriety of calling any more witnesses to the bar, in the present advanced stage of the prosecution, unless it could be clearly shown that some farther information was absolutely necessary, and that without such, there would be a material deficiency in that body of evidence on which their proceedings were to be founded. But he declared, that he should be particularly jealous of any proposal for the examination of witnesses, which should come from the hon. gentleman opposite (Mr. Francis), after the dishonourable and disgraceful situation in which he had, on a late occasion, involved the House, by the shameful and uncandid advantage which he had taken in his examination of captain Mercer. He inveighed against the conduct of Mr. Francis, contending that he had first procured, by his own immediate and palpable interference, a letter to be written to him by captain Mercer, containing the grossest and most violent calumnies against Mr. Hastings; and then so managed the examination of that letter, as to cause it to be entered upon the minutes of the committee; thereby making the House in some measure the accomplices in recording and publishing a most indecent libel. He argued against, what he called, the illiberality of such a mode of proceeding, and the dangerous tendency of adopting the practice into which the House had been led by the hon. gentleman, of taking a written document as evidence, when the very person who had composed it (and that clearly with a view that it should be produced as evidence) was present, and might be examined *vivâ voce*. He should, for these reasons, therefore, upon the ensuing day, object to the examination of any farther evidence. As to the project of examining witnesses in a private committee, to that he should also give his most determined negative, as well on the grounds of the manifest injustice of such a proceeding in a criminal inquiry, as from the proof before the House, from the recent transaction to which he had alluded, that such a step, illegal in itself, would probably be pushed to the very utmost extent of its bad and dangerous consequences.

Mr. *Francis* said, that it was impossible, after so personal and direct an attack, not to say a word or two in his own defence. In the first place, he denied that the letter was written at his instigation. With respect to captain Mercer, he was not acquainted with him personally, nor had he been ever in his company till he saw him at the bar of the House. He knew him by character only, and a man of fairer and more unimpeached character never acted as a trader in India. What he

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wanted to get at, by calling upon captain Mercer as a witness, was in respect to the opium sent out by Mr. Hastings to China. When Mr. Hastings took up ships for that purpose, Mr. Hastings had asserted, that there were no bidders for the Company's opium. The fact was, captain Mercer had come to Calcutta to bid for it, and was willing to pay for the whole of it in ready money. It was, therefore, to that point that he wanted to examine him. In order to ascertain whether captain Mercer knew any thing about the opium, he had desired a friend to call upon him, and the captain had written him the letter. How could he help that? When he had read the letter, he was sorry to find so much of the contents irrelevant; and the reason was, he knew the use that artful and ingenious men might make of it in that House. But then he was obliged to produce the whole letter or no part of it. Had he only produced an extract, and it ever had been found out that parts of it had been kept back, he should have been charged with the suppression of evidence, and many things would have been said of him, that would have been extremely unpleasant. With regard to the witnesses to be examined, he had the order of the House for their attendance; and as the points he meant to examine them to, were material, he hoped he should be permitted to call the witnesses to the bar, if he might not examine them before a committee, especially as their examination would be extremely short.

Mr. *Pitt* contended, that captain Mercer's letter had been apparently written at the instigation of the hon. gentleman, as was evident from every circumstance attending the whole transaction. He then read the letter, commenting upon it as he proceeded. He said, he did not wish to throw any reflection on the character of captain Mercer; he might be the most respectable trader in India; but it was certain, that in the present instance he had shown a great degree of indiscretion, and not a little of malevolence. He desired to know, if it were not a concerted scheme of the hon. gentleman's, how it happened that the letter at full length had been entered on the minutes, instead of proceeding in the usual and only proper method of bringing out the substance of it, if it were true, by way of question and answer?

Mr. *Francis* replied, that the right hon. gentleman had affixed his own ideas upon his argument. He had not said captain Mercer's letter was indiscrete, that it was malevolent, or a gross libel on Mr. Hastings: he had merely said, that some of its contents were irrelevant, and that he was sorry they were so; but how could he help the facts being so? Mr. Francis repeated his denial that captain Mercer's letter was written at his instigation. He said, the committee had not been taken by surprize in respect to the letter; he had put the questions relative to it fairly; and if gentlemen had thought it improper, it was their duty to have objected.

Mr. *Pelham* corroborated what Mr. Francis had said respecting the fair and open manner in which captain Mercer had been examined, and stated the particulars.

Mr. *Sheridan* recommended more temper as a necessary characteristic of every stage of a criminal proceeding so serious and solemn as that of an impeachment. It was evident the right hon. gentleman's accusation of his hon. friend had been as unfounded as his warmth had been unbecoming. His hon. friend had not instigated captain Mercer to write the letter; but the fault had been in the right hon. gentleman and his friends not attending their duty; in which case they might have prevented any improper letter having been entered on the minutes.

Mr. *Pitt* defended himself from the charge of improper warmth, contending that no degree of indignation could be too great or unbecoming on such an occasion, where the House of Commons had been made instrumental to an act of such palpable malice and injustice. He, however, took the hon. gentleman's reproof in good part, and hoped they might each of them benefit by those mutual admonitions which they found it so necessary to bestow on each other.

Major *Scott* said, that Mr. Francis had misrepresented the fact relative to the opium sent to China: the fact was not, that Mr. Hastings first let Mr. Sulivan have all the opium contract, and then sent the opium at the Company's expense to China. The opium sent to China was the opium purchased of Mr. Mackenzie, Mr. Francis's friend, in whose contract, Mr. Tighlman, Mr. Francis's relation, had an interest.

Mr. Grenville at length moved the order of the day for the House to resolve itself into a committee of the whole House, on the Charges against Warren Hastings, esq.

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which being agreed to, Mr. St. John took his seat at the table.

Mr. *Windham* rose to open the Charge relative to the conduct of Mr. Hastings respecting Fyzoola Khan. He began by stating, that as it consisted of a variety of parts, divided under different heads, and each section subdivided into articles, with infinite exactness, and had been long before them, he should hold it unnecessary for him to go into any very great length of detail, in order to impress on their minds the minute particulars, but would content himself with stating and reasoning upon the leading features of the charge. He proceeded to state to the committee, that the Nabob Fyzoola Khan, in 1774, on the invasion of Rohilcund, by the armies of the Vizier Sujah Ul Dowlah and the Company, with some of his people, was present at the decisive battle of St. George, and that he made good his retreat into a mountainous country with all his treasure: that he there collected the scattered remains of his countrymen, and made early overtures of peace to colonel Champion, at that time commander-in-chief of the Company's forces in Bengal. That he proposed in three letters, received on the 14th, 24th, and 27th of May, to put himself either under the protection of the Company, or the Nabob Vizier, through the mediation and guarantee of the Company. That on the 27th of May he sent an ambassador to the commander-in-chief, authorized to make a specific offer of three propositions, by one of which an annual increase of near 400,000*l.* would have accrued to the revenues of the Vizier, and the immediate acquisition of above 300,000*l.* to the Company for their influence in effecting an accommodation. That confident of the just, humane, and liberal feelings of the British, through the hopes of our interposition in his favour with the Vizier, he declined the invitation of the Mogul to join his arms and the Mahrattas, and refused to have any connexion with the Seiks, and neglected other obvious advantages. That colonel Champion thought nothing could be more honourable than our supporting so exalted a character, especially whilst it could be done on terms so advantageous. Mr. Windham read colonel Champion's letter at length, as the best elucidation of this point, and then resumed the thread of his argument, to state and reason upon the conduct of Mr. Hastings, in consequence of such an application, the general tenour of which was to obstruct, as far as he could, every advance towards an accommodation between Sujah Ul Dowlah and the Nabob Fyzoola Khan. After touching upon the manner in which at different times Mr. Hastings pursued this line of conduct, Mr. Windham came at length to the measure of the treaty of peace, concluded at Lall Dang, between the Vizier and Fyzoola Khan, which was finally signed and sealed on the 7th October 1774, and attested by colonel Champion, for which Fyzoola Khan paid the valuable consideration of 150,000*l.* By the treaty Fyzoola Khan was established in the quiet possession of Rampore, Shawabad, and other districts dependent thereon, subject to certain conditions, of which the most important were, "That Fyzoola Khan should retain in his service 5,000 troops, and not a single man more. That with whomsoever the Vizier shall make war, Fyzoola Khan should send two or three thousand men, according to his ability, to join the forces of the Vizier; and that if the Vizier should march in person, Fyzoola Khan should himself accompany him with his troops."

From these terms it was evident that Fyzoola Khan was not bound to furnish more than 3000 men under any construction, or rather that he was not bound to furnish so many as 3000, nor less than 2000, according to his ability, and that his personal service as vassal of the Vizier, was limited to the Vizier's marching in person. That, from the terms of the treaty, it did not appear of what the stipulated aid should consist, whether of horse or foot, or in what proportion; but it was the recorded opinion of Mr. Hastings in council, in January 1783, "That even a single horseman included in the aid which Fyzoola Khan might furnish, would prove a literal compliance with the stipulation." That, by the attestation of colonel Champion to the treaty, the government of Calcutta acquired the same right to interpose with a Vizier for the protection of Fyzoola Khan, as the government had before claimed, from a similar attestation of sir Robert Barker to assist the Vizier in extirpating the whole nation of Fyzoola Khan. That, after the death of Sujah Ul Dowlah, Fyzoola Khan in 1777, being alarmed at the young vizier's resuming a number of jaghires, granted by his father to different persons, and having learned that colonel Champion formerly witnessed the treaty as a private

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person, Fyzoola Khan made frequent and urgent solicitations through Nathaniel Middleton, then resident at Oude, to Mr. Hastings for a renovation of his treaty with the Vizier, and the guarantee of the separate agreement for his defence.

That, in March 1778, Mr. Hastings communicated a letter from Mr. Middleton, acquainting the Board, that he (Middleton) taking occasion from a late application of Fyzoola Khan, had appointed Mr. Daniel Barwell, assistant resident at Benares, to proceed with a special commission to Rampore, to inquire into the truth of certain reports, touching the conduct of Fyzoola Khan. That Mr. Hastings moved, that Mr. Barwell's deputation be approved; and that the resident, Mr. Middleton, be authorized to offer the Company's guarantee for the observance of the treaty subsisting between the Vizier and Fyzoola Khan, provided it meets with the Vizier's concurrence. That the proposition was resolved in the affirmative; and that the ultimate consequence was, that Mr. Middleton was authorized to conclude the treaty; and that it was transmitted by him to Mr. Barwell at Rampore, and by him presented to the Nabob Fyzoola Khan, who delivered a nuzzar, or present of elephants, horses, &c., and added a lack of rupees for the use of the Vizier, and another lack for the Company.

Mr. Windham now pointed out where these circumstances indicated ill-treatment and oppression on our part, and submission and obedience on the part of Fyzoola Khan, and came at length to state the demand for 5000 horse, in Nov. 1780, though Fyzoola Khan, according to treaty, was only obliged to furnish from two to three thousand troops, according to his ability. He commented upon this demand as very injurious, by proving that it was expressly contrary to treaty, and that all the subsequent steps taken in consequence of it were in the highest degree oppressive and unjust. At length Mr. Windham came to mention the Treaty of Chunar, which he stated to contain an article amounting to a direct violation of our guarantee of that Treaty of Lall Dang. He pursued his argument in tracing the consequences of that Treaty to the obtainment of a subsidy, reading the most essential of the letters of major Palmer and Mr. Bristow, on the subject of the negociation carrying on by major Palmer, for the obtainment of the said subsidy, in behalf of the Vizier, but to be paid to the Company in liquidation of his debt to them. After describing the prominent features of the charge, Mr. Windham moved, "That the committee, after having maturely considered the said charge, are of opinion, that it contains matter of charge of high crimes and misdemeanors against Warren Hastings, esq."

Major *Scott* said, that the hon. gentleman who opened the charge had not introduced any new matter; and as the defence of Mr. Hastings had so very fully taken in every part of the charge, he should not fatigue the committee by reading what had already, he presumed, been perused by every gentleman present. Fyzoola Khan, so far from having received any injury from Mr. Hastings, or the British government, had in fact derived security, honour, and prosperity, from his connexion with us, and Mr. Hastings had at all times been peculiarly cautious to prevent any infringement of his rights. It would be allowed, he was sure, that there never was a treaty more loosely worded than the Treaty of Lall Dang, by which Fyzoola Khan was bound to furnish two or three thousand troops. This stipulation he was freed from by the payment of 150,000*l.*, which was appropriated by the Nabob Vizier to the liquidation of the Company's debt. By that settlement, every possibility of future doubt or difficulty was removed, and during the thirteen years that Fyzoola Khan was under our protection, he enjoyed uninterrupted peace and prosperity. Where, then, was the injury which Fyzoola Khan had sustained; or the high crime and misdemeanor which Mr. Hastings had committed? In arguing these charges, it had been invariably the custom to go into the general subjects; he should therefore, he hoped, be excused for saying a few words relative to another charge connected with this, in some degree, as both originated at the Treaty of Chunar. Mr. Hastings had been censured for withdrawing the British resident from Farruckabad, though it was for the purpose of leaving that Nabob the complete master of his country. Another British resident had since been sent, and it actually appeared, by letters received ten days ago from Bengal, that Muzuffur Jung had complained more loudly against the British resident than he had formerly against the Nabob Vizier Sezawaul. To this complaint he, John Macpherson, esq., had replied in September last, expressing his belief that the

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complaint was groundless; and he adds, "My friend, I find that all the labours of my predecessor, Mr. Hastings, and of myself, to settle your affairs upon a regular footing, are ineffectual;" so that the Committee would see that it was absolutely impossible to relieve the distresses of that unfortunate man. But as to Fyzoola Khan, he was one of the happiest and most independent native princes in India, and had never received an injury of any kind. If Mr. Hastings was condemned, it must be for ackonwledging himself in the wrong, in inserting an article in a Treaty, which he determined, at the same time, not to act upon, without full proofs of the guilt of Fyzoola Khan. Here he could not avoid noticing one very extraordinary circumstance. For whom were all these exertions made by Mr. Hastings? Was it to put money into his own pocket? Bring corruption home to him, and it would be just to condemn him. Who received the Begum's treasures? the Company. Who received 150,000*l.* from Fyzoola Khan? the Company; and at a time when resources were required for the existence of our empire. Had the Begums complained, had Fyzoola Khan complained, or Muzuffer Jung? or was there a single complant from India against Mr. Hastings, though he had been now above two years from Bengal, and a ship had arrived in Calcutta, with the charges of the right hon. gentleman, above ten weeks before the Ranger sailed? So far from it, temples had been erected to the honour of Mr. Hastings at Benares. He had received many letters from Bengal, and had seen many more; yet he had not heard of a single complaint against Mr. Hastings since he quitted his government. —Another point to consider was, when these transactions happened. It was in 1782, when Great Britain was sinking in every quarter; but he would not trust to his own language to state what was the situation of the British empire in 1782, he would quote some beautiful lines, written by a right hon. gentleman, who generally sat opposite to him, for a bust of lord Chatham, with only one apprehension, that the poetry would suffer from want of grace in his mode of uttering it:

"Her trophies faded, and revers'd her spear,
See England's genius bend o'er Chatham's bier;
No more his sails, thro' ev'ry clime unfurl'd,
Shall spread her dictates o'er th' admiring world;
No more shall accents, nervous, bold, and strong,
Flow in full periods from his matchless tongue:
Yet shall thy name, great shade, from age to age
Bright in poetic and historic page,
Thine and thy country's fate congenial tell:
By thee she triumph'd, and with thee she fell."

That the prediction in the last line was not perfectly true, was owing to Mr. Hastings; for had we been as unfortunate in India as in Europe, America, and the West Indies, we had fallen to rise no more. But now many well-informed men (and the minister the first of them) looked to India, as to the resource from whence Great Britain was to reimburse herself for her misfortunes and losses every where else; and we were now about to impeach Mr. Hastings for those very acts which preserved so important a stake for the empire.

Mr. *Dundas* wished to have it understood, that he did not agree to the motion as concurring in that principle which he took to be the main drift of the charge. Though he differed in that particular, he certainly did not entertain sentiments hostile to the motion in general, or adverse to the future consequences to which it might lead. He conceived the general inference of the charge to be, that Mr. Hastings had all along proceeded upon an intention to seize upon the jaghire of Fyzoola Khan. To that inference he could not subscribe, because he did not believe that Mr. Hastings ever entertained such an intention; he did not on that account think his conduct in respect to Fyzoola Khan the less criminal, or that he ought not for that conduct to be impeached. Mr. Dundas desired to know if the hon. gentleman opposite did not think Mr. Hastings's advising a demand of 5000 horse from Fyzoola Khan in 1780, arose from a mere misapprehension or accidental lapse of memory as to the number of troops which that nabob had stipulated to furnish the Vizier in time of war?

Mr. *Francis* said, he believed it did. Mr. Hastings had stated to the council, that 5000 horse was the stipulated number; and as he had authorized the Treaty in 1774, the council gave him credit for the correctness of his information. But though Mr. Hastings had, he believed, in 1780, accidentally erred through misconception, he had afterwards wilfully persisted in the error, as the committee would find by referring to his conduct respecting Fyzoola Khan in 1781.

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Mr. *Dundas* declared, that he had always imagined it was an accidental and not a wilful misconception of the real conditions of the Treaty, which had been the cause of Mr. Hastings's advising to call upon Fyzoola Khan for 5000 cavalry in 1780. In that case, certainly, he, for one, should not attach much criminality to Mr. Hastings for what he did under such an error; though it certainly exposed him to some blame on the score of negligence or inattention. He would briefly state the leading particulars in which he thought the conduct of Mr. Hastings criminal: and first he would mention the violation of the guarantee of the Company to the Treaty of 1774. To that Treaty he conceived that Fyzoola Khan had every right to consider the Company as guarantee, in consequence of colonel Champion's signing his name as an attestation of it, and of the subsequent public authorized attestation of it at Rampore. By the Treaty of Chunar, in 1781, that guarantee was violated, and the British name brought into disgrace; as by an article of that Treaty, Fyzoola Khan was declared to have forfeited the protection of the British government, and permission was granted to the Nabob Vizier to resume his lands. That this permission was never intended to be suffered by Mr. Hastings to be carried into execution, Mr. Dundas verily believed; and in that, in his mind, consisted a great part of Mr. Hastings's criminality, as he thereby made use of the credit of the British name to delude the Nabob Vizier, and at the same time to hold out to Fyzoola Khan an idea, that the British government, which was the guarantee to him for the quiet possession of Rampore, Shawadaw, and some other districts, had stipulated by Treaty to assist the Nabob Vizier in dispossessing him of those territories. He commented on the extreme criminality of this conduct: but as it certainly differed materially from the construction which might be put on the charge before alluded to by him, viz. that it had been the intention of Mr. Hastings really to assist in dispossessing Fyzoola Khan of his territories, he could not agree to the motion, unless it was modified so as to restrict it to the points in which the matter of impeachment really consisted. The better to convey his meaning to the committee, he would produce the amendment which he had designed to offer to the motion. It was, in substance to state, that in the charge there was matter of impeachment, as far as was connected with that part of the Treaty of Chunar that went to the breach of the guarantee of the Treaty of Rampore. Mr. Dundas said that he did not mean to press his amendment, if it should appear to be disagreeable to gentlemen on the other side.

Mr. *Burke* applauded the candour of the right hon. and learned gentleman, in thus fairly stating what his objection was, as well as his conduct in declaring that he would not press it then, if not found generally acceptable. With regard to its having been no real intention of Mr. Hastings to dispossess Fyzoola Khan of his jaghire, Mr. Burke said, the right hon. gentleman might rest assured he never would make that a charge, or a part of a charge against Mr. Hastings, which he could not support either by direct legal evidence, or presumption so strong, as to be nearly equal to direct, legal evidence. If the right hon. gentleman would have the goodness to recollect, he would undoubtedly have candour to acknowledge, that in the charge performed by him, and in the argument of his right hon. friend, there had not been one syllable amounting to an insinuation, much less a charge, that it had been Mr. Hastings's real intention to assist in dispossessing Fyzoola Khan of his jaghire: and the reason why there had not, was, because he had neither direct legal evidence, nor strong presumptive evidence to support such an insinuation. The great charge against Mr. Hastings in this case, was, that he had kept Fyzoola Khan in a fever for ten years together, in which that father of agriculture (for so Mr. Hastings had described him to be) was put into a perpetual series of hot and cold fits, not knowing whether he was to look up to the British government in India as his protectors or his oppressors. Mr. Burke said, he had that day to congratulate the Committee on the singular circumstance of the hon. major, who had, so much to his own credit, and with a degree of zeal highly meritorious, on all occasions stood up the defender of Mr. Hastings, having declared that he had no defence to make against the present charge, and therefore had gone back to the charge concerning the affairs of Farruckabad, and treated the Committee with some verses inscribed on the bust of the late earl of Chatham. Those lines he had never before heard; but they were certainly beautiful, and he

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would do the hon. major the justice to say, they had suffered nothing in his hands, for the delivery had been as fine as the poetry. The purport of them was to declare that the greatness of the country had risen by the councils of the late earl of Chatham, and that after his death it had fallen. This poetry had been introduced by the hon. major in order to show that India had in like manner risen by the government of Mr. Hastings, but that it was not likely to fall, notwithstanding that he had quitted his power. The similarity therefore had failed. If that were true, all that he could say was, that he wished Mr. Hastings to have as much justice done him as the late earl of Chatham had in the instance in question, viz. to have an epitaph after he had his deserts. He wished the Resolutions of that committee might not be the epitaph.—The hon. major had besides talked of temples having been erected in India to Mr. Hastings. He knew not to the contrary, Mr. Burke said; but he well knew that there were temples dedicated in India to two very different sorts of divinities,—to Brama and Wisnow, the good and guardian deities, to whom the natives returned thanks for the benefits they received,—and to Rudor, the evil spirit, whose unwearied enmity and malign influence they earnestly deprecated. Whether Mr. Hastings was most likely to have been worshipped in the latter or in the former character, that committee might be at no great loss to guess; or, perhaps, the temple in question might be a temple of gratitude, in which the Indians offered up their hearty thanks to their guardian deities, for having delivered them from a monster, under whose persecuting spirit they had suffered so much. Mr. Burke was extremely pleasant upon the temples, and said, *Templa quam dilecta!* with an archness of tone that conveyed a meaning that raised a hearty laugh from both sides of the House. After pushing his ridicule to some length, he reverted to the charge and to Mr. Hastings's defence, in which that gentleman had himself admitted the truth of the charge, by using these words: "I am not ashamed to acknowledge, that the act itself was formally wrong, and yet more than formally, as it might become a precedent for worse purposes." Mr. Burke reasoned upon this admission, as comprehending the whole criminality imputed to Mr. Hastings in the charge, and in order to prove that the degree of criminality so imputed was enormous, he went over the principal facts, and argued upon them severally, as he proceeded. In the course of what he said, he paid Mr. Windham some compliments on the clear, logical, and pointed manner, in which he had opened the charge, and observed, that Mr. Hastings was extremely fond of proving that other persons had shared with him in the guilt of certain parts of his conduct; and wherever he thought he could prove that he had acted with an accomplice, he always seemed to think himself immediately exonerated from criminality. On the present occasion, he had endeavoured to state that an hon. member (Mr. Francis) was his accomplice; a point on which that committee were on that night to decide. Mr. Burke stated what Mr. Francis's conduct had been, when he attended the council in Calcutta, wounded as he was; and showed that Mr. Hastings was the man who misled the council, by declaring that 5000 cavalry was the exact number which, by the Treaty of Rampore, the nabob Fyzoola Khan was to furnish the Vizier with, when called upon. That circumstance alone, he said, so strongly marked the scandalous negligence with which the government of Mr. Hastings had been conducted, that it was a sufficient ground of impeachment. He observed also, how shameful it was that Mr. Bristow, at the distance of 900 miles from Calcutta, where the records of all treaties were kept, should be the person to send Mr. Hastings information what was the real purport of the Treaty, upon a gross misconception of which he had acted, and that in a manner tending to disgrace the British government.—After a variety of remarks and reasonings, all pointing to establish the extreme readiness which Fyzoola Khan had shown to comply with the requisitions made upon him for cavalry, that a great part of his troops had been employed in the defence of the province of Oude, and the territories of the Nabob Vizier, that Fyzoola Khan's character was revered by all the neighbouring princes, that no internal rebellion, or external attack had disturbed his possessions, and that he had been most unwarrantably treated by the British government under Mr. Hastings; Mr. Burke concluded with declaring, that he had not a doubt of proving any part of the charge to the removal of the scruples of the right hon. gentleman opposite, and to the conviction of every man not predetermined not to be convinced.

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Mr. *Martin* did not rise to enter into the matter of the charge, but only to combat an inference which seemed to fall from the hon. gentleman, that the distresses of this country were to excuse such acts of violence and injustice as tended to relieve their distresses—this was a principle to which he could never subscribe; for if, instead of the present distressed situation of this country, we were in an actual state of bankruptcy, and all the treasures of Hindostan could be transferred to the Exchequer of Great Britain, so it were to be done by injustice and oppression, he should think it a crime highly deserving the punishment of the law.

The Committee divided: Yeas, 96; Noes, 37. The chairman was then moved to report to the House the various resolutions to which the committee had come, on each of the different charges, which had been considered and discussed; which was agreed to. The House being resumed,

Mr. *Pitt* remarked, that he should certainly give such a vote on the general question of the impeachment as would correspond with the part which he had already taken; but he must at the same time observe, that having only partially acquiesced in the propriety of several of the charges, particularly in those concerning the affair of Benares, and the contracts—he should endeavour to bring the matter before the House in such a way, as would, if it should meet the general opinion, relieve him from the unpleasant predicament of being obliged either to dissent *in toto* from a proposition, to several parts of which he wished to give his concurrence, or to vote for one which contained some circumstances to which he was adverse. But whether he should for this purpose make a separate motion, or only move an amendment when the business was brought before the House by those who conducted the prosecution, he was not as yet prepared to determine.

Mr. *Burke* said, he approved of the right hon. gentleman's proposition, and with regard to what he had said respecting the difference of opinion, which he entertained on certain parts of the charge relative to Benares, and that relative to the contracts, he trusted he would keep his mind open upon those points, as he had no manner of doubt but that he should be able, at a fit opportunity, to convince him, that there was not any real ground for his entertaining the difference of opinion which he professed.

The report was ordered to be received on the 2nd of April.

*Debate on Mr. Beaufoy's Motion for the Repeal of the Test and Corporation Acts.**] March 28. In pursuance of the notice he had given,

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* A short time previous to the above debate, the following Paper was published and dispersed by the Dissenters:—

The Case of the Protestant Dissenters, with reference to the Test and Corporation Acts:

"In the year 1672, the 25th of the reign of king Charles 2, an act was passed, intituled, 'An Act for preventing dangers which may happen from Popish Recusants:' by which it is enacted, 'That all and every person or persons that shall be admitted, entered, placed, or taken into any office or offices, civil or military, or shall receive any pay, salary, fee, or wages, by reason of any patent or grant of his Majesty, or shall have command or place of trust from or under his Majesty, his heirs or successors, or by his or their authority, or by authority derived from him or them, within this realm of England, dominion of Wales, or town of Berwick-upon-Tweed, or in his Majesty's navy, or in the several islands of Jersey and Guernsey, or that shall be admitted into any service or employment in his Majesty's household or family, shall receive the Sacrament of the Lord's Supper, according to the usage of the Church of England, within three months after his or their admittance in, or receiving their said authority and employment, in some public church, upon some Lord's day, commonly called Sunday, immediately after divine service.

"The circumstances of the time when this Bill passed, were very remarkable. Papists were indulged in their religion, and many of them were employed in the great offices of state. The king himself was suspected of popery, and the duke of York, his presumptive heir, had openly declared himself of that religion. This Bill was introduced in direct opposition to the Court; the penal laws having been suspended, contrary to acts of parliament, by the royal proclamation, chiefly in favour of Papists, at the very time when a war was begun to destroy the only Protestant state by which England could expect to be supported in the defence of her religion and liberties. On these accounts, the minds of all zealous Protestants were in the utmost fear and consternation; and, accordingly, the design of the Act was, as the preamble declares, 'to quiet the minds of his Majesty's good subjects, by preventing dangers which might happen from Popish recusants.'

"The Protestant Dissenters apprehend, therefore, that this Act, as the title sets forth, was made wholly against Papists, and not to

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Mr. *Beaufoy* rose and said;

I am sensible, Mr. Speaker, that in a business so important as that upon which we are this day assembled, it might have been expected that the large proportion of the inhabitants of this kingdom who are now, by my voice, suitors to the House, would have been more studious of experience and ability in their advocate. It may naturally excite surprise, that in a cause which so deeply concerns

prevent any danger which could happen to the nation or Church from the Dissenters. Indeed, so far were the Protestant nonconformists from being aimed at in this Act, that, in their zeal to rescue the nation from the dangers which were at that time apprehended from Popish recusants, they contributed to the passing of the Bill; willingly subjecting themselves to the disabilities created by it rather than obstruct what was deemed so necessary to the common welfare. Alderman Love, a member of the House of Commons, and a known Dissenter, publicly desired that nothing with relation to them might intervene to stop the security which the nation and Protestant religion might derive from the Test Act, and declared that in this he was seconded by the greater part of the Nonconformists. This conduct was so acceptable to Parliament, that, in the very session in which the Test Act passed, and while that Act was depending, a Bill was brought into the House of Commons, intituled, 'A Bill for the ease of Protestant Dissenters.' This Bill, having passed through the different stages of that House, was carried up to the House of Lords, where likewise it passed, with some amendments. These amendments having given occasion to a conference between the two Houses, king Charles 2, from an apprehension that the measure would prove injurious to the Popish interest, on the 29th of March, 1673, adjourned the parliament to the 20th of October following. In the next session, an attempt was made, in the House of Commons, to discriminate the Dissenters from the Papists, with regard to their qualifications for public offices, by bringing in a Bill for a general test, to distinguish Protestants from Papists; which Bill, having been read a second time, and referred to a committee, was laid aside without being reported.

"The late reverend and learned Dr. Burnet, bishop of Salisbury, in a speech in the House of Lords, in the year 1703, took particular notice of the conduct of the Dissenters, with regard to the Test Act; and justly concluded, that, as the Act was obtained in some measure by their concurrence, it would be hard to turn it against them.

"Though king William 3, of glorious memory, had refused, when prince of Orange, to give his approbation to the repeal of the Test Act and other penal laws against Papists, knowing that the measure was countenanced by king James 2, with the sole view of introducing Roman Catholics into public offices, and that it would have been at that time dangerous to the Protestant religion and the liberties of the people; yet, when he was raised to the throne of these kingdoms, and no danger could be justly apprehended, he told his first Parliament, in one of his speeches, 'that he hoped they would leave room for the admission of all Protestants who were willing and able to serve him; and that such a conjunction in his service would tend to the better uniting them among themselves, and strengthening them against their common adversaries.' Accordingly, when the Bill was brought in for abrogating the oaths of allegiance, &c. to king James 2, a clause was ordered to be added for taking away the necessity of receiving the Sacrament as a qualification for civil offices. This clause the House of Lords rejected, contrary to the sentiments of many noble peers, the stedfast friends of their country, and distinguished promoters of the revolution; who declared in their protest, 'That a greater caution ought not to be required, from such as are admitted into offices, than from the members of the two Houses of Parliament, who are not obliged to receive the Sacrament to enable them to sit in either House.'

"The Test Act is not the only statute by which the civil rights of the Dissenters are abridged. In the year 1661, the 13th of Charles 2, the year after the restoration, an Act was passed, intituled, 'An Act for the well-governing and regulating of Corporations:' by which it is provided, 'That no person or persons shall for ever hereafter be placed, elected, or chosen in, or to, any corporation offices, that shall not have, within one year before such election or choice, taken the Sacrament of the Lord's Supper according to the rites of the Church of England.' This Act, which was passed in a period of great heat and violence, was probably designed against some of the Protestant Dissenters: 'For,' as a noble lord* expresses himself, 'in those times, when a spirit of intolerance prevailed, and severe measures were pursued, the Dissenters were reputed and treated as persons ill-affected and dangerous to government.' But both Houses of Parliament in a short time entertained different sentiments of them; and, before the end of that reign, discovered an inclination to relieve them from the disabilities created both by the Corporation and Test Acts.

"On the 24th of December, in the year 1680, a Bill was ordered into the House of Commons, for repealing the Corporation Act.

* See lord Mansfield's speech in the House of Lords, February 4, 1767. New Parl. Hist. Vol. xvi. p. 316.

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their interests and their honour, they should have committed the management of their suit to a man of so little pretensions to parliamentary skill, and of talents so humble as mine. Sir, their conduct admits of only one explanation: they have confidence in the justice of their cause, and they have equal confidence in the candour and liberality of the House. They know that in addressing the most enlightened men of the most enlightened age, the artificial aids of rhetoric cannot

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On the 6th of January following, this Bill was read a second time, and referred to a committee. While this Bill was depending in the House of Commons, a Bill came down from the Lords, intituled, 'An Act for distinguishing Protestant Dissenters from Popish Recusants.' It doth not appear that there was any division on either of these Bills, but they were defeated by the sudden prorogation of the Parliament on the 10th of January. The Commons, being apprized of the King's intention, had only time to pass some votes on the state of the nation, one of which is in these words: 'That it is the opinion of this House, that the prosecution of Protestant Dissenters, upon the penal laws, is, at this time, grievous to the subject, a weakening of the Protestant interest, an encouragement to popery, and dangerous to the peace of the kingdom.'

"Such public testimonies in parliament, in favour of the Protestant Dissenters, they cannot but consider as affording a full evidence of their zeal and concern for the Protestant religion and the liberties of these kingdoms, and of their being hearty and sincere friends to the public peace, both in church and state. They therefore humbly hope for the repeal of the said Acts for the following reasons:

1. "Every man, as it is now universally acknowledged, has an undoubted right to judge for himself in matters of religion; nor ought his exercise of this right to be branded with a mark of infamy.

2. "The Holy Sacrament of the Lord's Supper, being a matter purely of a religious nature, and being appointed by our blessed Saviour only for the remembrance of his death, ought not to be applied to the secular ends of civil societies.

3. "As Dissenters are universally acknowledged to be well-affected to his Majesty and the established government, and are ready to take the oaths required by law, and to give the fullest proof of their loyalty, they think it hard that their scruple to receive the Sacrament after the manner of the Church of England, or after the manner of any church, as a qualification for an office, should render them incapable of holding public employments, civil or military.

4. "The occasional receiving of the Lord's Supper, as a qualification for a place, cannot, in the nature of things, imply that those who thus receive it mean to declare their full and entire approbation of the whole constitution and frame of the Estabished Church; since men may be compelled by their necessities, or allured by secular advantages, to do what they would not do were they left to their free choice. As, from these motives, persons may be induced to conform to the Established Church in this particular instance, though they do not approve of its forms and ceremonies in general; so, from the same motives, others may comply with the sacramental test who are not even Christians, and who therefore cannot be supposed to wish well to Christianity itself, or to any national establishment of it whatsoever. Hence it is apparent, that such a test can be no real or effectual security to the Church of England. It is also apprehended, that, independently of any remarks upon the doctrine of papal dispensations, the sacramental test complained of may be received by many Papists, because many of them hold the Church of England to be no church, her ministers no ministers, and her sacraments no sacraments.

5. "The Oaths of Allegiance and Supremacy, and the Declaration against Transubstantiation, have, without the sacramental test, been found effectual, for more than a century, to exclude Papists from both Houses of Parliament.

6. "The repeal of the Test and Corporation Acts, while it would be a relief to many of his Majesty's faithful subjects, would lay no difficulty or hardship on any others of them. It would no way affect the Established Church. Religion, and the National Church, were established before these Acts were passed, and would continue to be established were they repealed. The doctrine, the discipline, and privileges of the Church, would remain exactly the same as they are at present. Its constitution and its form of government are not secured by these Acts; nor would they be injured by the total repeal of them. On the contrary, every serious clergyman would find, in such repeal, ease to his conscience, and safety from vexatious prosecutions; for the service of the Church of England, in its notice respecting the celebration of the communion, forbids blasphemers of God, slanderers of his word, adulterers, &c. to come to the holy table; and yet the minister, as the law now stands, must admit all such persons to the Sacrament when they demand it as a qualification for an office, or subject himself to a prosecution.

7. "No other instance can be produced, among all the reformed churches, in which the Sacrament is ever applied as a qualification for civil employments and advantages.

8. "The Episcopalians in North Britain, who are the dissenters from the Church es-

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be necessary to enforce the arguments of reason. They know that in addressing a parliament which possesses, beyond any that ever assembled within these walls, the confidence and affection of the people—a parliament under whose auspices, and by whose guidance this kingdom, to the disappointment of her enemies, and the astonishment of the world, has recovered from her desolated state; a parliament whose decisions proclaim to every part of the empire, that under their government, no individual shall be deprived of his rights without just cause, nor penalties be inflicted without the commission of a crime; —they know that in addressing such a parliament, it will be sufficient for them to prove that, contrary to the first principles of justice, they are subjected to punishment without the imputation of guilt; amerced of the common privileges of citizens, without the suspicion of offence; and condemned to perpetual degradation and dishonour, unless they will consent to incur the guilt of renouncing that right of private judgment in matters of religion which the God of nature has given them.

Three different classes of our fellow-subjects are aggrieved by those provisions in our laws of which I shall propose the repeal. The first is composed of all those Englishmen who are Dissenters from the Church of England. The second is composed of all the members of the Established Church of Scotland. The third consists of all those respectable clergymen of the Church of England, who think that the prostitution of the most solemn ordinance of their faith to the purposes of a civil test, is little less than a sacrilegious abuse. Of these several descriptions of my fellow-citizens, entitled as they all are to particular regard, the Dissenters have the first claim to my attention; for they have publicly requested,—a request which they confined to their own case, lest they should be thought presumptuous in expressing the complaints of others,—they have publicly requested that I would submit to the consideration of Parliament the propriety of relieving, from penalties of disqualification and reproach, so many hundred thousands of his Majesty's ardently loyal and affectionate subjects. Of the earnest, anxious solicitude they feel to obtain relief; and of the unanimity with which they prefer their prayer to Parliament, the House will be enabled to judge from the mention of a single fact.

The Dissenters of England are chiefly composed of the Presbyterians, the Independents, and the Baptists, who differ in many circumstances of doctrine and discipline, but who all agree in the custom of annually appointing two deputies from each of their congregations in the metropolis, and in all the neighbouring districts within ten miles of the metropolis, for the management of their affairs; a custom which has long been established among

tablished in that part of the United Kingdom, are not liable to any incapacities in consequence of their not qualifying themselves by receiving the Sacrament according to the usage of the Church of Scotland; but are capable of all the advantages of the civil government by taking the oaths, &c. as appointed by law. Whence it follows, that it is not reasonable or just, that such of the members of the Established Church of North Britain as are resident in England, should be subject to the ungracious alternative of acting inconsistently with their principles, or of incurring the penalty of disqualification for the service of their Sovereign, in any office, civil or military.

9. "In the year 1779, the 19th of his present Majesty, an Act was passed in Ireland, 'for the relief of his Majesty's faithful subjects, the Protestant Dissenters of that kingdom;' whereby it is enacted, 'That all and every person and persons, being Protestants, shall and may have, hold, and enjoy, any office or place, civil or military, and receive any pay, salary, fee, or wages, belonging to, or by reason of, such office or place, notwithstanding he shall not receive or have received the Sacrament of the Lord's Supper,—without incurring any penalties—for or in respect of his neglect of receiving the same.' The Protestant Dissenters of England, therefore, humbly hope, from the moderation and equity of the Legislature, for the same just restitution of their civil rights, to which alone their application is confined.

"For these reasons the Dissenters are induced to make an application to Parliament for relief, humbly apprehending that their request will appear to be founded in justice, and that a compliance with it will redound to the honour of religion, will tend to the security and strength of the Protestant interest, be conducive to the welfare of the nation, honourable to the King as the common father of his people, and no way injurious to any one subject in his Majesty's dominions. Arguments so weighty and cogent as those which have been represented, cannot, they trust, fail, in conjunction with the enlarged and liberal spirit of the times, to procure from the Legislature the repeal of statutes, which can in no degree be considered as grounded on public necessity or public advantage."

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them. Now, it is by the unanimous voice of that assembly of delegates, supported by the wishes, earnestly expressed in letters, of their brethren in all parts of the kingdom, that the present request solicits the attention of Parliament. With the permission of the House, I will read to them two resolutions which constitute, in the present business, the principal proceedings of the delegates.

"At a general meeting of the deputies of three denominations of Dissenters, held at Dr. Williams's Library, Redcross-street, London, on Friday the 5th of January, 1787, to consider of an application to Parliament, for the repeal of the Test and Corporation Acts. Edward Jefferies esq. in the chair. The question being put and fully debated, it was thereupon resolved unanimously, That an application be made to Parliament for a repeal of the Corporation and Test Acts, so far as they concern Protestant Dissenters. Resolved also, That it be referred to the committee, to take the most effectual measures for carrying the above resolutions into execution."

"At a meeting of the Committee, held at the King's-Head Tavern, in the Poultry, on the 2nd of February, 1787, Mr. Jefferies in the chair, resolved, That the mode of proceeding in the House of Commons, for the repeal of the Corporation and Test Acts, be by motion. Resolved, That Mr. Beaufoy be desired to make the motion for that purpose."—From these proceedings the House will be convinced how very idle and frivolous those reports are, which intimate that the Dissenters in general do not desire relief. Thus authorized, I am happy, in the outset of our deliberations, to declare that the grievances of which the Dissenters complain, are of a civil, not of an ecclesiastical nature. They humbly solicit a restoration of their civil rights, not an enlargement of their ecclesiastical privileges. It is of consequence that this fact should be distinctly stated, and clearly understood; for the very word Dissenter leads so naturally to the supposition that their complaints are of an ecclesiastical kind; and their acknowledged merit as citizens, so naturally excludes the idea of its being possible that the law should have deprived them of any of their civil rights, that I feel myself under a necessity of stating, at the very threshold of the business, that their prayer has nothing ecclesiastical for its object. They wish not to diminish the provision which the Legislature has made for the Established Church; nor do they envy her the revenue she enjoys, or the ecclesiastical privileges of dignity and honour with which she is invested. If their aim had been to attack the rights of others, and not merely to recover their own, they would not have chosen a member of the Church of England for their advocate, nor could I have accepted such trust. So far are they indeed from trespassing on the rights of others, that even the restitution of their own they did not solicit till the public tranquillity was completely restored, and till a season of leisure from other avocations had afforded the Legislature a convenient opportunity of considering the hardships by which they are aggrieved That men of acknowledged merit as citizens, of known attachment to the Constitution, and of zealous loyalty to the Sovereign, should at no time solicit relief from unmerited disabilities and undeserved reproach, is not to be expected from the Dissenters, for it is not to be expected from human nature. But in praying for that relief, they have chosen the time which they thought the most convenient to Parliament, and the mode which they deemed the most respectful to the House. United in sentiment on this occasion, to a degree which I believe unexampled in any body of men, and hitherto unknown among themselves, and forming, in most of the towns of England, a large proportion of the inhabitants, they did not choose to crowd your table with petitions. They wished to owe their success, not to the number of the claimants, but to the equity of the claim; and they have observed that justice never pleads more powerfully with the House, than when she approaches them accompanied only by her own complete perfections.

The disabilities which the law has imposed on the Dissenters, are contained in the provisions of two acts of parliament, that were passed in the reign of king Charles 2nd, and which are generally known by the name of the Test and Corporation Acts. In the first place, therefore, I shall state what those provisions are. In the next place I shall describe the periods at which, and the circumstances under which they were severally made. I shall then prove, on the clearest evidence, that the Test Act, which constitutes their most extensive grievance, was not levelled against the Dissenters, and that the causes which dictated the Corporation Act have

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ceased to operate. And lastly, I shall demonstrate on the plainest principles of reason, that the repeal of those provisions would not only be attended with no disadvantage to the State or Church, but would bring with it increase of strength to the one, and additional security to the other. The Corporation Act declares, that no person shall be elected into any corporation office, who shall not, within one year before such election, have taken the Sacrament, according to the usage of the Church of England. The Test Act declares, that every person who accepts a civil office, or a commission in the army or navy, and who does not within the time prescribed by the Act, take the Sacrament of the Lord's Supper according to the usage of the Church of England, shall be disabled in law to all intents and purposes whatever from occupying any such civil office, or from holding any such military commission; and if without taking the sacramental qualification within the time prescribed by the Act he does continue to occupy a civil office, or to hold a military commission, and is lawfully convicted, then, Sir, (and I beg leave to intreat the attention of the House to this most extraordinary punishment)—then he not only incurs a large pecuniary penalty, but is disabled from thenceforth, for ever, from bringing any action in course of law, from prosecuting any suit in any court of equity, from being guardian of any child, or executor or administrator of any person, as well as from receiving any legacy.

If, then, the zeal of a Dissenter for the service of his country should have induced him to bear arms in her defence, and to hazard his life in her cause, what return does she make to his patriotism? She strips him of every right which is dear to the man, or honourable to the citizen; for if he is convicted of having fought her battles without the sacramental qualification, she tells him, "Your property shall no longer be protected by the law; the very privileges which arise from the private relations of life shall no longer be yours. Has your deceased brother appointed you by his will the guardian of his orphan child?—that trust you shall not execute. Has a near relation bequeathed to you a legacy? has your father left to you his inheritance?—that legacy, that inheritance, you shall never enjoy. Even the property you at present possess, shall no longer be secure; for while to the claims of others upon you the courts of justice shall continue to be open, to your claims upon others they shall, from this time for ever, be inexorably shut. Thus beggared and stript of your all, the vengeance of the law is not yet complete; the Test Act exacts from you a penalty which, even in a flourishing state of a soldier's fortune, might be thought excessive; and if that penalty is not paid, a prison is your lot." Sir, this is not the language of an imaginary law, it is the language of one of your statutes; I describe it exactly as it is. Such is the treatment the Dissenter receives if he embraces the profession of a soldier—a profession which in all ages, and in all countries, has been esteemed the most honourable, and which in many countries, and for many ages, was considered as the chief distinction between the freeman and the slave.

Of similar harshness is the language of the law towards every Dissenter who shall apply himself to the profession of a merchant: "The town in which you live, may have owed to you much of its prosperity; yet in the offices of that town, in the management of its revenues, in the care of its public concerns, you shall have no participation. The kingdom itself is largely your debtor: you have extended her trade; you have added to her wealth; the revenues of her excise are increased by your manufactures; the receipt of her customs is swelled by your commerce, and many of the seamen, who form the defence and bulwark of the state, were first employed in your ships, and were trained to the service by your means; yet in return for these benefactions the Act excludes you from all offices and trusts; its language towards you is, that of perpetual alienation: though one of the best of citizens, it deprives you of the common rights of citizenship. Your interest in the happiness of the kingdom is great; your property in the funds is large; the pledges of your attachment to the state are the strongest that can possibly be given; yet the Test Act declares you unworthy of any confidence. Your integrity is unsuspected; your conduct is without blemish; your rank, in the estimation of all good men, is on the highest level; yet the Test Act has fixed upon you the same character of reproach, the same stamp of dishonour, the same mark of rejection and of infamy, which the law has attached to men who are convicted, publicly and judicially convicted, of being perjured."

Am I told that the Dissenters may avoid

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the penalties of the law merely by taking the Sacrament? What is this but to say, that they may avoid the disabilities imposed upon Dissenters by ceasing to be Dissenters; that they may escape the disadvantages annexed to their religion by renouncing their religion; that they may relieve themselves from the punishment imposed upon their faith by becoming apostates to that faith: they do not deserve the insult of such a reply.

Such are the two Acts which have imposed on the Dissenters the disabilities and unmerited reproach, from which they humbly, but earnestly, intreat relief: the reasonableness of their request will receive additional strength from the consideration of the circumstances of the two periods at which these statutes were passed. The Corporation Act was imposed at a time when the kingdom was still agitated with the effects of those storms that had so lately wrecked her peace; but for which the Dissenters of our day are no more responsible than the members of the Church of England at this time are for the violences of the Star-chamber, the cruelties of the High Commission Court, or any of the other movements of that despotism which produced the tempest. At that time indeed the Dissenters, as a distinct and separate class from the Established Church, had not an existence; the Act of Uniformity, which produced the separation, and which created distinctions of a different sort from the sacramental test, not having passed till a later period. Of the injustice of the Corporation Act, and of the spirit of despotism in which it was drawn, the House will be enabled to judge from the contemplation of one single fact. The Act enables his Majesty to appoint commissioners to administer certain oaths to all mayors, aldermen, common-council men, and other persons bearing any office of magistracy or place of trust in any corporation; and then declares, that the said commissioners so appointed by the King, or any five of them, shall have power, by warrant under their hands and seals, to displace or remove any of the persons aforesaid from the said offices and places, if the said commissioners, or the major part of them then present, shall deem it expedient for the public safety, although such person shall have taken and subscribed, or shall be willing to take and subscribe the said oaths, and to make the said declaration. Thus the Act declares to the magistrates of all the corporate towns in the kingdom; "You are directed to take certain oaths, and to subscribe a certain declaration; but though you shall be willing to take those oaths, and to subscribe that declaration; though you shall actually have complied with the law; though you have faithfully fulfilled both the letter and the spirit of the Act, yet the King's commissioners, if such shall be their pleasure, without a trial, without any charge alleged, without the imputation or suspicion of guilt being fixed upon your conduct, shall by their warrant remove you from your office."

I wish at all times to express myself in respectful language, when I speak of an act of the Legislature; but a law more unconstitutional than this, more alienate from every principle of public policy, or more repugnant to every feeling of justice, never disgraced the records of the kingdom. Fortunately, that clause in the Act which enabled the Sovereign to issue his commission for the removal of magistrates, ceased to operate when the commission expired; but the clause remains uncancelled in our statute-books, and is a precedent to future times of the manner in which all corporate rights may be destroyed, if ever the accomplishment of that object shall form a part of the policy of the Court. I have quoted it to show, in what temper, and for what purposes the Act which first prescribed a religious test for a civil office, was originally framed: I have quoted it also to show that the necessity which, at the time of passing it, was alleged in its defence, must have been then, as it is certainly now, merely fictitious.

Such were the circumstances that marked the origin of the Corporation Act in the year 1661. Those which accompanied the Test Act were of a different nature. Before I describe them it will be necessary to take notice of another law, which was passed at an earlier period, and of which I have already had occasion to speak; I mean the celebrated Act for establishing uniformity of worship in the Church. This Act was passed in the year 1662: it directs that all ministers shall subscribe the 39 Articles mentioned in an Act of the 13th Eliz.; and shall declare their unfeigned assent and consent to every thing contained in the new book of common-prayer. Ruinous penalties, and long imprisonment, are imposed as the punishment of disobedience. In consequence of this law, 2000 ministers resigned their livings,

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and became teachers of separate congregations: a line was drawn that narrowed, while it strongly marked the enclosure of the Established Church; and numerous descriptions of people, the principal of whom were the Presbyterians, the Independents, and the Baptists, were compelled to distinctness of separation. The first effect which this complete discrimination produced on the members of the Established Church, was jealousy and eager suspicion, and determined ill-will. But in proportion as experience afforded a surer ground for deciding on the conduct and principles of the Dissenters; in proportion as their peaceful submission to laws of harshness and severity disclosed their attachment to the State; in proportion as they were seen to reject those offers of liberal advantage, by which the Court endeavoured to allure them to an alliance with the Catholics; in that proportion the hostile feelings of the members of the Established Church were gradually diminished, and the House of Commons, in particular, discovered towards them a disposition of benignity and kindness.

Such was the state of affairs in the year 1672, when the people were alarmed with an apprehension that the Sovereign had formed the design of subverting the established religion of his country. They had long known that his confidential friends were Catholics; that the prime minister, lord Clifford, and the King's brother, the presumptive heir to the Crown, were of this persuasion; and that the King himself was suspected of having secretly embraced the same hostile faith. But superadded to these different circumstances of alarm, they now saw an army under Catholic officers, in the depth of winter, encamped at the gates of London. A fact so extraordinary, which admitted but of one interpretation, filled their minds with uneasiness and extreme dismay, and in the panic of the first impression, induced the Legislature to pass the law that bears the title of an Act for preventing the dangers which may happen from Popish recusants, but which is better known by the shorter name of the Test Act.

The minister, lord Clifford, who was himself a Catholic, attempted to persuade the Dissenters to oppose the Bill, upon the ground that its provisions were so worded as to extend to them, who were not in any respect the objects of the Bill; and that nothing could be so unjust as to subject to the penalties of the law, a description of men who were not within the meaning of the law. The Dissenters admitted the force of the argument, but waved their right to its benefit; and one of the members of the city of London, who was himself a Dissenter, declared, on their behalf, that in a time of public danger, when delay might be fatal, they would not impede the progress of a Bill, which was thought essential to the safety of the kingdom; but would trust to the good faith, to the justice, to the humanity of Parliament, that a Bill for the relief of the Dissenters should afterwards be passed. The Lords and Commons admitted, without hesitation, the equity of the claim. They considered the debt they had contracted to the Dissenters, as a debt of honour, the payment of which could not be refused; and accordingly a Bill for their relief was passed; but its success was defeated by the sudden prorogation of the Parliament.

A second Bill was brought in with a view to the same object, though by a different title, in the year 1680; and passed the two Houses, in consequence of the same implied compact. But while it lay ready for the royal assent, King Charles the 2nd, who was much exasperated with the Dissenters for refusing to support the Catholics, and who always delighted to obtain the most unwarrantable ends by the most despicable means, prevailed upon the clerk of the crown to steal the Bill and over-reach the Parliament. The Court exulted in the success of the expedient, and thought it a happy way of getting rid of a disagreeable measure. But that relief to the Dissenters which neither the obvious equity of their claim, nor the countenance given to it by Parliament could extort from King Charles the 2nd, the magnanimity of William the 3rd, was impatient to bestow: for, in one of his earliest speeches from the throne, he expressed his earnest hope that such alterations would be made in the law, as would leave room for the admission of all his Protestant subjects who were willing and able to serve him.

To what peculiar causes it was owing that so benignant and wise a requisition had not the countenance and support of his Parliament, those who advert to King William's political situation, will be at no loss to determine; for though the circumstances of the times, and the greatness of his own character, had placed him on the throne, yet after he was seated there, the

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strongest party in Parliament was not the party of the Court. A large proportion of those who had invited him to England as their saviour, meant not to make him their sovereign. They resented his advancement; and resolved to disturb his enjoyment of a possession from which they could not exclude him; they opposed, with violence, the measures which he was known to patronize, and among those measures, that union which, on every principle of policy and justice, he was anxious to promote among his Protestant subjects.

Some men, however, there were, and of the foremost rank for greatness of character even in that extraordinary æra, who supported, with unanswerable reasons, the sentiments of their Sovereign; as will appear from a protest in the year 1688, which I will beg leave to read The reasons assigned in the protest were, "Because it gives to a great part of the Protestant freemen of England, reason to complain of inequality and hard usage, when they are excluded from public employment by law; and also, because it deprives the King and kingdom of divers men, fit and capable to serve the public in several stations, and that for a mere scruple of conscience, which can by no means render them suspected, much less disaffected to the government.—Because it turns the edge of a law (we know not by what fate) upon Protestants and friends to the government, which was intended against Papists, to exclude them from places of trust, as men avowedly dangerous to our religion and government; and thus the taking the Sacrament, which was enjoined only as a means to discover Papists, is now made a distinguishing duty among Protestants, to weaken the whole by casting off a part of them. Because mysteries of religion and divine worship are of divine original, and of a nature so wholly distant from the secular affairs of public society, that they cannot be applied to those ends; and therefore the Church, by the law of the Gospel, as well as common prudence, ought to take care not to offend either tender consciences within itself, or give offence to those without, by mixing their sacred mysteries with secular interests.—Because we cannot see how it can consist with the law of God, common equity, or the right of any freeborn subject, that any one be punished without a crime. If it be a crime not to take the Sacrament according to the usage of the Church of England, every one ought to be punished for it, which nobody affirms; if it be no crime, those who are capable, and judged fit for employments by the King, ought not to be punished with a law of exclusion, for not doing that which it is no crime to forbear." Such were the sentiments of the lords, Oxford, Montague, Mordaunt, Wharton, Lovelace, and Paget, expressed at a period that was subsequent to the Toleration Act, which is considered, I find, as having given to the Dissenters the complete possession of all they had a right to claim.

Upon another occasion of a still later date, that of a conference between the two Houses of Parliament, on the subject of the Bill for preventing occasional conformity, the Peers—not a few individuals of that assembly, but the whole House—expressed, in language still more emphatic, their abhorrence of the injustice of the Test Act. They declared, that "an Englishman cannot be reduced to a more unhappy condition, than to be put, by law, under an incapacity of serving his prince and country; and therefore nothing but a crime of the most detestable nature ought to put him under such a disability."

Thus we find, that in the judgment of the House of Peers, the laws of exclusion are laws which deprive the freeborn subject of his rights. For every man has a right to the common privileges of the society in which he lives; and among those common privileges, a capacity in law of serving the sovereign, as distinguished from a right to an actual appointment in his service. No man has a right to be actually appointed to an office, civil or military, but the person whom the choice of his sovereign shall call to that situation; but every subject has a right to be deemed capable of such an appointment, if his sovereign shall name him to the trust. No barrister, for example, has a right to claim the situation of a judge; but every barrister has a right to be deemed capable in law of an advancement to that situation, if his Majesty shall name him to the office. No soldier has a right to actual promotion; but every soldier has a right to be deemed capable in law of promotion, if his merits, in the estimation of his sovereign, shall entitle him to that honour.

On the one hand, therefore, I hope I shall not be understood to say that any man has a right, independently of his sovereign's pleasure, to be actually appointed

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to any office civil or military; that would be absurd indeed: and, on the other hand, I equally hope that the right of the subject to be deemed capable in law of a civil or military employment, if his Majesty shall name him to such employment, will not be considered as a privilege of no account. In the eye of the law, this capacity for the service of the State, is a right of such high estimation, of such transcendent value, that exclusion from it is deemed a proper punishment for some of the greatest crimes. Has an officer, in the civil line of the public service, been detected in a flagrant breach of the duties of his trust? Are his offences so atrocious as to admit of no palliation or excuse? Has he violated his oath, not from ignorance or inattention, but wilfully and corruptly, with full deliberation, and from motives the most profligate? What punishment does the law inflict upon his deliberate perjury? It declares him incapable of serving his Majesty in any office of honour, emolument, or trust; it imposes on him the same species of disability which it inflicts upon the Dissenters. Thus the punishment that is annexed by the law to one of the greatest crimes, the punishment of perjury, is inflicted on a large proportion of his Majesty's most loyal and affectionate subjects; not for any crime committed; not for any charge or suspicion of guilt, but for opinions merely; for opinions that have no relation to civil interests; for opinions that weaken none of the obligations which bind the individual to the State; for opinions that diminish none of the motives which urge him as a citizen to a faithful discharge of his duty—but for opinions purely religious.

Is, then, opinion a proper subject for punishment? Is it a subject upon which the law can justly operate? Deeds, not thoughts; conduct, not belief; are the objects of human authority. The ideas of the mind, the conclusions of the understanding, when not embodied in acts, are beyond the limits of mortal jurisdiction. What is it then which the Dissenters ask—New privileges? Certainly not; but the restitution of a right, a right of thinking for themselves in the speculative points of the Christian faith, without being subject, on that account, to afflictive penalties of disqualification and dishonour; a right of freedom to the mind, a right as essential to our nature as those rights of existence and of freedom for the body, which, unless forfeited by crimes, our constitution acknowledges to be sacred; and which Blackstone emphatically declares no time, no place, no compact, no authority of government, can possibly destroy.

Am I accused of an uncandid statement of the law, when I say that it inflicts on Dissenters, unsuspected of offence, the same punishment as on men convicted of perjury? Am I told that the situation of the former is not brought down to the level of the latter, for that there is still a wide difference between them? That there is a wide difference I readily admit; but whence does the difference arise? not from any distinction in the disabilities inflicted by the law, for they are the same to the perjured convict and to the Dissenter; but from the public opinion, which refuses to adopt the injustice of the law, and will not be a party to such an irrational misapplication of punishment. Am I still told that to give to exclusion from offices the name of punishment, is a perversion of language? I answer, the language I use is that which, on the same subject, in speaking of the same men, was employed by the members of the highest judicial court in the kingdom, the most august tribunal at this time existing in the world: for the House of Peers are of opinion, that disabilities are penalties, that penalties are punishments, and that the particular disabilities to which the Dissenters are subjected by the law, are such as ought never to be inflicted except on the greatest crimes. To this declaration of the supreme tribunal of the kingdom, I appeal from a strange assertion inconsiderately made, "that the Dissenter who does not choose to receive the Sacrament, is subject to no punishment unless he also trangresses the law." Sir, his punishment is that very exclusion from office which the House of Peers has pronounced to be justly applicable to no crimes but those of the greatest magnitude; an exclusion from which, unless he chooses to incur those terrible penalties which the criminal justice of the kingdom inflicts upon the outlaw, he has no means of relief. The punishment of the perjured convict, or the still more afflictive punishment of the outlaw, constitute his only alternative.

"But," I am asked, "does not the Act of Indemnity (an Act which, for the most part, is annually passed) protect from the penalties of the Test and Corporation laws, all such persons as have

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offended against them?" Sir, if the Indemnity Act does protect from the dreadful penalties of those statutes, all such persons as have executed civil offices, or have held commissions in the army or the navy, without the sacramental qualification, then, what inconvenience can arise from a repeal of the statutes themselves? If, by the annual Indemnity Act, the execution of the law is relinquished, where is the objection to a repeal of the law itself? To preserve the claim to a test from the Dissenters, when the exercise of the claim is abandoned, may answer the purposes of irritation, but cannot answer the purposes of power. The claim in that case operates merely as a corrosive to a wound that otherwise would heal; it stimulates jealousies that otherwise would sleep; it agitates passions that otherwise would be at rest.

But, in truth, Sir, the Indemnity Act does not protect the Dissenters from the Test and Corporation laws; for its only effect is, that of allowing farther time to those trespassers on the law, against whom final judgment has not been awarded. Should, for example, a prosecution have been commenced, but not concluded, the Indemnity Act does not discharge the proceedings; it merely suspends them for six months; so that if the party accused does not take the Sacrament before the six months allowed by the Indemnity Act shall expire, the proceedings will go on, and, long before the next Indemnity Act will come to his relief, final judgment will be awarded against him. Thus it appears, that the Indemnity Act gives no effectual protection to the Dissenter who accepts a civil office or military command; for he who cannot take the Sacrament at all, cannot take it within the time required by that Act. The penalties of the Test Act will consequently follow: he becomes incapable of receiving any legacy, of executing any trust, or of suing in any court, or on any occasion, for justice: he is placed in the dreadful situation of an outlaw.

Since, then, the Dissenters have a right as men to think for themselves in matters of religion, and since they have a right as citizens to a common chance with their fellow-subjects for offices of civil and military trust, if their sovereign should deem them worthy of his confidence, the only remaining question is,—does the public good require, do the ends of civil society require that these rights should be superseded, and that the Dissenters should be excluded from the service of the State? That a regard to the general good controls all other considerations is readily admitted; and therefore all arguments to prove this point, if any such should be urged, will be very superfluous. But then it is equally certain, that considerations of general good can never justify any invasion of civil rights that is not essential to that good: the ends of civil society can never justify any abridgement of natural rights that is not essential to these ends. If then I shall be able clearly to demonstrate that the continuance of those acts which invade the rights of the Dissenters, is not necessary to the general good of the kingdom, is not necessary to the well-being of the State, is not necessary to the establishment of the national Church, then it will follow, as a certain conclusion, that they ought to be repealed. Stronger still will be the argument for that repeal, if I can prove (as I confidently trust I shall) that those Acts are not only useless, but are actually pernicious both to the State and Church.

To show how unnecessary, how very useless, the exclusion the Dissenters from the offices of executive power demonstrably is, it will be sufficient to remark, that to the higher trust of legislative authority the Dissenters are admitted without hesitation or reserve. Of that power which controls the executive, they have, equally with their fellow-citizens, a full and free participation. From the members of this House, from the members of the House of Peers, no religious test is required. Is then the taking the Sacrament unnecessary in the legislators of the kingdom, who hold in their hands the lives and fortunes of their countrymen; and can it be requisite from the commissioners of the common sewers? Is the profession of a particular faith of more consequence in an exciseman than in a member of the House of Commons? Or must the office of a land-waiter be guarded by other proofs of attachment to the Church than those which are deemed sufficient from a peer? Are oaths without the Sacrament an adequate security from innovation, when administred to those who may change the established religion if they will; and are not the same oaths equally sufficient when administered to those who have no power to introduce the smallest alteration?

The advocates for the continuance of the Test Act are reduced to this obvious

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dilemma. If they say that the state can never be secure unless the test of the Sacrament be demanded from the legislators of the country, experience refutes their assertion. If they say that the security of the state requires from executive officers a stronger pledge than is requisite from legislators—that it requires a stronger pledge from those who cannot change the established religion, than it does from those who can; the assertion refutes itself.

I have heard of an idle opinion, that there is something of a republican tendency, something of an anti-monarchical bias in the very doctrines of the Presbyterian church. In reply to that opinion, if indeed it deserves a reply, I appeal to the principles and practice of the inhabitants of that part of the island in which the Presbyterian church is established by law. Are the Scots suspected of an indifference to monarchy? Are they accused of an unwillingness to support the dignity and power of the Sovereign? Is the prerogative of the Crown that part of the constitution which they are the least anxious to uphold? I have heard them taxed with a predilection for those maxims of policy which are the most favourable to power; but of levelling principles, of republican attachments, I have never heard them accused.

Or if we speak of the English Dissenters, who will deny that, from the time that the establishment of William 3 on the throne of England gave her a constitution, (for till then her government scarcely deserved this name) the Dissenters have uniformly acted on principles the most constitutional, and have constantly proved themselves the ardent friends, the active supporters, the firm and faithful adherents of that system of monarchy which was then established by law? Or who will deny, that, from the accession of his Majesty's family to the Crown, no class of his subjects have shown themselves more fervently attached to the person of the Sovereign? Can these things be admitted, and can it still be asserted that the exclusion of the Dissenters from the service of the public is necessary or beneficial to the state?

"To the state separately considered," (will probably be the reply) "we acknowledge that the exclusion of the Dissenters cannot be deemed beneficial; but we think their exclusion is essential to the security of the Established Church." This point therefore is next to be discussed. In all the controversies I have ever heard on the subject, the persons who object to the repeal of the Test Act, uniformly insist upon a maxim, the truth of which I perfectly admit, but which does not bear upon the point, the maxim "that the Established Church ought not to be destroyed." God forbid that the Church of England should be destroyed, or that I should advise a measure of real hazard to her safety. The apprehension arises from a habit of confounding two ideas which in themselves are perfectly distinct: the idea of giving to a particular church a national establishment, and the idea of confining to that church all the offices of executive government. The establishment of a church requires a legal provision for its ministers; but it does not require for its laity an exclusive right to civil and military trusts. The establishment of the Church of England consists in her tithes, her prebendaries, her canonries, her archdeaconries, her deaneries, and her bishoprics. They constituted her establishment before the Corporation and Test Acts had an existence; and they will equally constitute her establishment if these Acts should be repealed. In Scotland no such laws as the Test and Corporation Acts ever had a being; yet who will assert that in Scotland there is no established church? Or who will declare, from the history of that church, that she is weakly or imperfectly secured? In Ireland, the relief which is now solicited in this kingdom for the Protestant Dissenters, was granted seven years ago; yet who will say that the established church of Ireland is destroyed? Let me therefore intreat those members of the House who contend that a church establishment cannot be supported without a religious test, to consider for a moment what they undertake to prove. In the first place, they must prove that there never was an established church in England till the 25th year of the reign of Charles 2. In the next place, they must prove that there is not at this hour, and that there never was an established church in Scotland: that there is not, and that there never was, an established church in Holland: that there is not, and that there never was, an established church in the dominions of the empress of Russia, or in those of Prussia or of Hanover: that the emperor of Germany has destroyed the established church through all his dominions; and that the church of Ireland was annihilated seven years ago.

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Thus it appears on the strongest of all evidence, the evidence of facts, that the supposition of the Test and Corporation Laws being necessary to the support of the Established Church is a weak and groundless surmise. Strength to the Church, and not weakness—security, and not danger—I shall prove by unanswerable arguments, will be the consequence of repealing those obnoxious laws; for the different classes of Dissenters have no general interest, no bond of union, no sufficient inducement, to support each other, but that reproachful exclusion from public employments which is common to them all. It is the hardship of being punished without a crime, of being stript of their rights as citizens, without the suspicion of offence, of being placed by the law on a level with those who are perjured—it is this hardship which has given them a common cause. It is their sense of oppression, their resentment for injuries received, their indignation for unmerited disgrace, which has formed the alliance between the Presbyterian, the Independent, and the Baptist, and which has led them to forget their ancient disagreements in the contemplation of their common wrongs.

Persons who know them not, may possibly suspect them of a secret design to invest their own ministers with the possessions of the Church; and may imagine that, in that design, a sufficient inducement to mutual amity and a common exertion will continue to exist. Yet the very persons who reason on this ground, even those whose suspicions are the most inveterate, must still admit that if, in their present situation, the Dissenters are urged by two different passions to wish the ruin of the Church, that of resentment for existing oppression, and that of an eager ambition for her wealth, the removal of the first and strongest of the two will take from them their principal impulse: nor can it be denied, that a league which rests on two motives, will be weakened when the most powerful of those motives is completely done away. Whence it follows, that even on the ground which the bitterest opponents of the Dissenters have taken against them, the proposed repeal will increase the security of the Church. But those who are at all acquainted with their real principles, perfectly well know, that among those principles, no one is more fundamental than that of keeping their ministers in perfect dependance on the laity, and of excluding them from all power, and from all influence, but that which arises from greatness of talents, eminence in learning, and purity of life: a principle that suggests no possible inducement to clothe them with the honours, or to enrich them with the spoils of the Established Church. Thus it appears from the plainest deductions of common sense, that the proposed repeal will remove from the Established Church the only danger to which it can ever be exposed, that which arises from a close and intimate alliance among those of a different communion; and will consequently unite the two greatest advantages which, on such an occasion, the House, as guardians of the kingdom, can neither obtain nor desire, that of giving satisfaction to the Dissenters, and additional security to the Church.

Perhaps I shall be asked, (for I have heard such a question agitated), "Will not the repeal of the Test Act admit to offices of magistracy, and to every situation of civil and military trust, men of all professions, men of all possible faiths? May not a Roman Catholic be president of the council? May not a Mahometan, if he happen to be born in England, become an expounder of our laws, and preside in the Court of King's-bench? May not a Jew be made keeper of the King's conscience; and a worshipper of fire be seated in the Speaker's chair? If the Test Act be repealed, what security will the kingdom have against these strange and preposterous appointments?" To the first part of the question, that which relates to the Catholics, my answer is:—the oath of abjuration, the oath of supremacy, the declaration against the doctrine of transubstantiation, (every one of which will remain in full force, though the Corporation and Test Acts shall be repealed) are deemed sufficient in law, and have been found in practice actually sufficient to exclude the Catholics from an admission to either House of Parliament. Many gentlemen of that faith are of great fortune, and of the highest worth, and therefore of great influence in the country; yet who among them has ever been admitted to a seat within these walls? Some of them are hereditary members of the House of Peers, yet who of their profession has voted in that assembly? Now, if the oaths, and declaration against an essential doctrine of the Roman faith, have been found sufficient, without the Sacrament,

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to exclude the Catholics from situations of legislative power; situations to which every motive of interest and ambition strongly invites them; can there be a doubt of the sufficiency of the same means to exclude them from the humbler offices of executive authority?

To the second part of the question, "What security, if the Test and Corporation Acts should be repealed, will the public have that persons who are not even Christians, will be admitted to situations of civil and military trust?"—my answer is, the same security as before those Acts were passed. Their date, when compared with the age of the kingdom, is but of yesterday: yet, during the many hundred years which had elapsed from the time of the Norman conquest to the passing of those laws, I do not recollect that there is any instance upon record, of a Jew's being Lord Chancellor of England, or of a Musselman's advancement to the Court of King's-bench; or of a worshipper of fire being raised to the dignity of the Speaker's office.—Were there not legal obstacles to their admission to public employments, I should not think that the followers of Moses, of Mahomet, or of Zoroaster, would be the objects of the Sovereign's choice. So many things are entrusted to his discretion, that I should imagine this would not be the way in which the confidence reposed in him was most likely to be abused. But I need not dwell on arguments of this sort, for the oath of abjuration expressly excludes all persons but Christians; as it contains a positive declaration, that he who takes it, swears upon the faith of a Christian. Now this oath, (if I am permitted to proceed with my plan, and to bring in a bill for the purpose,) together with the oaths of allegiance and supremacy, and the declaration against the Catholic doctrine, of the nature of the consecrated bread and wine, will be required from all persons admitted to civil or military trust.

When, then, I am asked, "If you abolish the test of the Sacrament, what new test will you establish in its room?" my answer is, that of the abjuration oath, and of the declaration which condemns an essential part of the Romish creed. The first cannot be taken by the Deist or the Jew, or the professor of any religion but the Christian. The last cannot be taken by the Catholic. Upon this plan, then, no person can be admitted to an employment, military or civil, but on two specific conditions. The one is, that he give the same proofs of attachment to the state, the same pledges of fidelity for the discharge of an executive office, which is deemed sufficient in the members of the House of Commons, and in those of the House of Peers, for the faithful discharge of legislative trusts. The other is, that the Sovereign shall have sufficient confidence in his probity and merit, to select him from his fellow-citizens, as worthy of an employment in his service.—On these conditions, what danger of improper appointments can possibly arise? The offices to which the Dissenter will be admitted are merely executive; to which no legislative authority, no power of altering, in the least degree, the laws or religion of the country is attached; and from which, generally speaking, without any proof of offence, or any reason assigned, he may be removed at the pleasure of his Sovereign.—I hear it said, "but what if we cannot trust the Sovereign? what if the chief magistrate himself, from an enmity to the Church, or a wish to new-model the state, should call the Dissenters to his aid, and invite them to execute his scheme?"

Sir, the attempt which is thus supposed has actually been made; the circumstances which are thus imagined have actually existed; for, till the 25th year of Charles the 2nd, the Test Act had not a being; and for some years before that time, it suited the purposes of this monarch to invite the Dissenters to his service, in which he hoped that, as a persecuted people, sheltering themselves under his protection, they would favour the designs he had formed against the laws and established religion of his country. Entreated with earnestness to the sun-shine of favour, the gates of the palace were thrown open to receive them. All that could please the vanity, or gratify the interest, or flatter the ambition of men, was profusely offered on the one hand, while on the other were shown them, scorn and ignominy; every hardship which law, wrested from its purposes by the hand of power, could impose, or that the persecuting statutes of Elizabeth could inflict;—penalties that could rob them of their all—bonds, too, and stripes, and the misery of a dungeon, where existence, by slow and lingering means, pines itself away;—they were told to take their choice.—In this trying situation, in this dangerous alternative, the severest proof to which virtue can be ex-

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posed, their country saw with what unshaken fortitude, with what constancy of mind, with what stedfast resolution they uniformly sustained their part. Unseduced, unterrified, they rejected with scorn, the offers of the Court, and quietly resigned themselves to those fetters, and to that imprisonment from which, generally speaking, the hour of release was the same, which conveyed them to their graves.

The zeal of the Dissenters for the constitution of their country, is, then, undisputed: "But why," (say those who object to their relief) "why should we hazard any change in our laws? are we not in possession of inestimable blessings? does not the nation flourish in prosperity? have we not the experience of a hundred years of happiness in favour of this statute?" I answer, the prosperity you describe is tainted with injustice: the happiness of one part of the people is polluted by the oppression of another: there is no equality in this distribution. The Spaniard, who receives his annual returns from the labour of the Indians in his mine, (I purposely describe a case which, in its circumstances, is widely different from the present, the better to demonstrate the tendency of that principle which is common to them both), the Spaniard, when he hears the complaints of those unfortunate Peruvians, may answer, "Is not the nation prosperous; does not the nation flourish? have we not enjoyed the blessing of a long repose from the disasters that once afflicted the empire? Why, then, do these people complain? 'Tis true we have robbed them of many of their rights, but we have not deprived them of all. Are not many of the comforts of life still theirs? and on certain days of the year, which they belive to be holy, do we not permit them to worship, in their own way, the Being they adore?—they ought to be satisfied; let us not hear of their complaints." This language of the Spaniard, however different the circumstances that give rise to it, is founded on the same principle on which the prayer of the Dissenters is opposed: for that principle is oppression; and if one degree of oppression may be defended, another degree of it, under different circumstances, may be defended also. Justice is a narrow path across an unlimitable ocean; he who quits her eternal line, whether the distance at which he leaves it be great or small, will equally find that there is no resting-place on which his wearied reason can long repose.

"But if justice be the principle upon which you decide, shall not the Catholics partake of its benefits? Shall not they as well as the Dissenters enjoy the advantage of those common privileges of citizenship which you describe as the unquestionable right of all?" I answer, without hesitation—If the Catholics can prove, that though they are of the Church of Rome they are not of the Court of Rome. If they can give a sufficient pledge of loyalty to the Sovereign, and of attachment to the laws and constitution of their country (questions which at this time we are not called upon to decide, and which therefore I mean not to discuss,) I do think they ought to be admitted to the civil and military service of the State.

One only objection to the proposed repeal, so far as I have heard the subject at any time discussed, still remains to be answered; and that is, "that the proposed relief of the Dissenters, however just in itself, may introduce less reasonable requests, and may lead to dangerous innovations; for where shall the Legislature make its stand? Where shall it mark that limit?" My answer is, justice has marked that limit; she has drawn it with so strong a hand, that the most inattentive cannot but observe it, and the most incautious cannot heedlessly pass it. The Church has a right to her establishment, and the Dissenters have a right to a complete toleration. I use the words 'complete toleration,' because Dr. Paley, the present archdeacon of Carlisle, in his celebrated System of Morals, has observed—That is a right to which the Dissenters are entitled, but which, as long as they are subject to civil incapacities on account of their religious opinions, it is impossible to say they enjoy.

Were I to judge from the language I have heard, I should imagine that even that imperfect restoration of their rights, which the Act of Toleration passed by the Legislature in the reign of king William, has granted to the Dissenters, is considered as a boon to which they had no claim, and which arose from pure benevolence. The generosity of that Act is extolled, as if there was a sort of merit in no longer attempting to lash men into conviction; to fetter their minds by the imprisonment of their bodies; to employ the gaoler as a missionary of the Gospel; or to commit violence and outrage in the name of the God of all peace.

The Toleration Act restored to the

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Dissenters (restored, not gave) many of their rights, but did not restore them all. The privilege of admission to civil offices, and the yet more honourable privilege of hazarding their lives in their country's cause, are still unjustly withheld. The re-establishment of these privileges would give that complete toleration which constitutes the whole of the Dissenters' claim. Should they endeavour to overstep this line, and to encroach on the rights of the Established Church, the Legislature will undoubtedly be called upon to declare, and no man will hold that language with more decision and firmness than myself, "your prayer is unreasonable; your pretensions shall be opposed." It appears then, that the suggested repeal is not the commencement of a new plan, but merely the completion of that wise system of toleration which, in part, has long since been adopted. The Corporation and Test Acts are all that remain of the persecuting laws against Protestant Dissenters; for the wisdom of later times has relinquished such unnatural defences. They are the only remaining bastions of an old fortress, which experience has discredited, and all other parts of which are either destroyed or abandoned.

In most of the enlightened nations of Europe, the principles for which I contend are no longer a subject of dispute. In Scotland and in Holland no religious test, as a qualification for a civil office, has, at any time, existed. In the Prussian dominions, and in those of the empress of Russia, no traces of such a test are to be found; in Ireland, and in the dominions of the Emperor, all civil disqualifications, on account of religious opinions, are completely done away. In France a similar relief was extended by the edict of Nantz, which, if public report may be credited, is likely to become, in the present reign, a permanent part of the policy of that kingdom; for an opinion prevails there of its not being necessary that a Frenchman should be a Catholic, in order to have the privilege of shedding his blood in the service of his country. Shall, then, England alone adhere to an exploded system which all other enlightened nations of Europe, upon a full conviction of its weakness, have already abandoned, or are now preparing to abandon? Shall foreigners still be employed to fight her battles? Shall the Hessian sword again be called upon to protect her from invasion, while so many thousands of her own people, willing to bleed in her cause, and impatient to hazard their lives in her defence, are excluded from her service?

One proof of the absurdity, of the incredible folly of these inhuman statutes, presses so strongly on my thoughts, that I cannot refrain from submitting it to the consideration of the House. The benevolent Mr. Howard; he upon whom every kingdom in Europe, England excepted, would gladly confer, at least, the common privileges of a citizen; and whom the proudest nation might be happy to call her own: he of whom a right hon. member of this House has said, "he has visited all Europe—not to survey the sumptuousness of palaces, or the stateliness of temples; not to make accurate measurements of the remains of ancient grandeur, nor to form a scale of the curiosity of modern art; not to collect medals or to collate manuscripts;—but to dive into the depths of dungeons; to plunge into the infection of hospitals; to survey the mansions of sorrow and pain; to take the gage and dimensions of misery, depression, and contempt; to remember the forgotten, to attend to the neglected, to visit the forsaken, and to compare and collate the distresses of all men in all countries:" he, even he is denied in England the common rights of a subject; he is incapable of legal admission into any office: and the consequence is, that his zeal for his country having led him a few years since to brave the penalties of the law, and to serve her in a troublesome and expensive civil employment, without the sacramental qualification which his religious persuasion would not permit him to take, the penalties of the Test Act are still hanging over him: and I fear that even now, on his return to his native country, amidst the plaudits of an admiring world, it is in the power of any desperate informer, who is willing to take that road to wealth and damnation which the Legislature has pointed out and recommended to his choice;—I fear it is in the power of every such informer to prosecute him to conviction; and to bring upon him those dreadful penalties which constitute the punishment of an outlaw. God forbid, that in the view of all Europe, such indelible dishonour should be brought upon the British name.

Thus I have stated (too much at large perhaps, but the importance of the subject will plead my excuse) the merits of the Dissenters' case. I have shown the nature of those provisions, in the Test

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and Corporation Acts, from which they supplicate relief; and have described the dreadful penalties which these Acts impose. I have shown at what periods, and under what circumstances these afflictive laws were passed. I have proved that of the Test Act the Dissenters were not the objects; and that of the Corporation Act, which for the space of three years established despotism by law, the alleged necessity has no longer the pretence of truth. I have also proved, that after the proposed repeal, all those who cannot take the abjuration oath, which operates as a bar to all but Christians, and make the declaration, which excludes the Catholics, will continue as completely rejected as before: and that even their willingness to give these pledges of attachment to the laws will avail them nothing, unless, in the estimation of their sovereign, their merit shall be such as to render them worthy of an employment in his service. I have likewise shown, that the repeal will increase the strength of the kingdom, by enabling his Majesty to bring into action the talents and affections of all his Protestant subjects; and that it will also give additional security to the Church.

Whoever, then, shall be of opinion, that the general voice of all the enlightened nations of Europe is deserving of regard;—whoever shall admit that the exertions of the whole kingdom will have greater avail than its mutilated strength;—whoever is convinced that union is better than separation; that power is preferable to weakness, and that national justice is the surest ground of national prosperity, will agree with me in thinking that the law which excludes the Dissenters from civil and military employments, ought to be repealed. The grievances of two other descriptions of persons, whose importance in the community cannot be disputed, and the reasonableness of whose plea is too obvious to require any length of discussion, still remain to be mentioned.

By the Test and Corporation Acts, no native of Scotland who is of the established church of that country, can be admitted to any office in England, or to the army or navy in any part of Great Britain, unless he will publicly profess a different religion from his own. Yet the offices of the state are the offices of Great Britain, for the salaries of the persons who fill them are paid by taxes levied on Great Britain. The army, too, and the navy, are the army and navy of Great Britain; for in the burthen of their payment, Scotland, undoubtedly, bears her part. Hence it is evident, that by the Test Act an English restriction is imposed on a British office; an English restriction is imposed on the British navy; an English restriction is imposed on the army of Great Britain. Englishmen residing in Scotland, are entitled to all the privileges of Scotchmen, for neither the late chief baron Ord, who presided in the Court of Exchequer there, nor Mr. Wharton, who is one of the present commissioners of excise in North Britain, nor any other Englishman who fills a public office in that country, was obliged to renounce the Church of England, in order to qualify himself for the trust. It is justly considered as a British trust, and upon it therefore no Scotch restriction is imposed. Why then should the naval or military service of the united kingdoms be fettered with English restraints, or why should English conditions be annexed to the possession of a British office? There is neither common justice nor common sense in the measure.

I have heard it said, from a confusion of ideas which is scarcely credible, that to grant a remission in favour of Scotland, of the Test and Corporation Acts, would be a breach of the Union; an opinion which supposes, that because, by the Articles of Union, nothing can be taken from Scotland, but what was then stipulated, therefore nothing can be given. It supposes that if, in a private bargain, I have engaged to concede certain points to my neighbour, I am therefore bound by that bargain, to concede to him nothing more. It supposes, that if my agreement with him gives me a right of common on his manor, that I violate my compact if I afterwards voluntarily offer him a right of common upon mine.

Are we told that the Test and Corporation Acts are among the statutes which secure the doctrines, discipline, worship, and government of the Established Church of England, and are therefore by the Act of Union declared to be unalterable? Sir, the government and discipline, the doctrines and the worship, of the English Church, were the same before the statutes were enacted, and would continue the same if those statutes were repealed; and consequently do not derive their security from them: whereas the Act which relates to the patronage of the church of Scotland, and which did seem to affect its discipline, was held to be no breach of

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the Articles of Union; neither was that Union understood to be weakened by the subsequent Act, which gave a complete toleration in Scotland to Episcopal Dissenters.

When the Articles of Union were under the consideration of Parliament, a proposal was made in the House of Lords, that the perpetual continuance of the Test Act, and in the House of Commons, that the perpetual continuance of the Act of Corporation should be declared a fundamental condition of the intended Union; but the motions were both rejected—a proof that the Legislature did not mean to give to them the same perpetual existence as to the Act of Uniformity, and to the statute that was passed in the 13th of Elizabeth, both of which were specifically named, as conditions of the compact, and expressly declared invariable.

If the Test and Corporation Laws are deemed unalterable parts of the Articles of the Union, it follows, of course, that every alteration in those laws must be considered a breach of the Union, and that every suspension of those laws must be considered as a suspension of the Union. Now both the Acts are altered, and in part repealed, by subsequent statutes, and, for six months in almost every year, are wholly suspended: but who will assert that the Articles of the Union are dissolved, or that their obligation on the two countries is suspended for six months in every year? or who will deny that the same power which alters a part, may alter the whole of those laws? who will deny, that the same authority which suspends a law for six months, may abolish it for ever?

That many of the natives of North Britain, who are members of its established church, have taken the Sacrament as a qualification for naval or military employments, I readily admit; for those men who consider the service of their country as the first of all duties, and their obligation to their sovereign as the first of all bonds, will make great sacrifices indeed, rather than forego the right of bearing their part in the general defence of the kingdom. But does it therefore follow, that the necessity of making those sacrifices is no hardship? Does it therefore follow, that he who renounces the religion, rather than renounce the service of his country, has no reason to complain of the alternative? Others of the natives of that kingdom, too much attached to their religious profession to abandon it on any consideration, yet much too ardent for their country to relinquish the satisfaction of engaging in her service, are at this very hour exposed to the penalties of the law—exclusion from the right of receiving a legacy; exclusion from the right of acting as the guardian of a child; exclusion from the right of suing in any court, or on any occasion, for justice.

Am I asked how often, of late years, has the law been enforced? My answer is, the lethargy of the law gives no security to the subject; for a hungry informer may, at any time, rouze it to exertion, and direct it to its prey. But though the fierceness of the statute should not be called into action, yet in the insult which is offered to the Scots, in the dishonour of being placed on the same level with men whose claim to confidence is blasted by the crime of perjury established in proof against them—in that dishonour, in that insult, there is no intermission, there is no pause. It is time that these odious distinctions, these hateful signs of difference between the two countries which compose Great Britain, should entirely be done away; and that every scar and seam which mark the lips of her ancient wound, should disappear for ever, and that her offspring should have leave to consider themselves as one nation and one people.

Nothing now remains, but that I should briefly mention the hardships imposed by the Test Act on the ministers of the Established Church; a class of our fellow-subjects, to whose concerns the members of this House cannot be indifferent. The law which declares that every man who accepts a commission in the army, or is appointed to a civil office, shall take the Sacrament of the Lord's Supper, compels the clergyman to administer this Sacrament to every person who shall demand it upon that ground; for, if he refuses, a ruinous prosecution for damages is the obvious and inevitable consequence. The very expense of the trial would probably exhaust his scanty means, and leave him nothing but his body to answer, by imprisonment, the adverse judgment of the court. Since, then, the law, by menaces too terrible to be resisted, compels him to administer the holy Sacrament to every man who shall demand it as a qualification for an office, in what manner must he proceed; shall he give the invitation in the usual words of the service, "All you that do truly and earnestly repent of your

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sins, and are in love and charity with your neighbours, and intend to lead a new life, following the commandments of God, and walking from henceforth in his holy ways; draw near, with faith, and take this holy Sacrament to your comfort?" Considering the motives which bring them to the holy table, such an address might be deemed an insult to their feelings.—Or shall he tell them, with a better chance of speaking in unison with their thoughts, "All you that are lately appointed to offices under his Majesty, that do truly and earnestly desire your continuance therein, and are in love with the profits thereof: you that are lately become excise-officers, or custom-house officers, or salt-officers, or officers of the stamps, and have a charitable hope of enriching yourselves with the spoils of the illicit trader, draw near in in faith, and take this holy Sacrament to your comfort, that you may have a legal title to your places?" By the duties of his function, by the positive precepts of his religion, the minister is enjoined to warn from the sacred table, all blasphemers of God, all slanderers of his word, all adulterers, and all persons of a profligate life; yet to those very persons, if they demand it as a qualification, he is compelled, by the Test Act, to administer the Sacrament, though they come to him drunk from the protracted revels of the night, or warm from the neighbouring stews. And what is the nature of the Sacrament which the clergyman is thus compelled to administer? One sentence, one single sentence from the service of our Church, with the permission of the House, I will beg leave to read. After having exhorted the persons who are preparing to communicate, "diligently to try and examine themselves before they presume to eat of that bread, and drink of that cup," it thus proceeds;—"for, as the benefit is great, if with a true penitent heart and lively faith, we receive that holy Sacrament (for then we spiritually eat the flesh of Christ, and drink his blood; then we dwell in Christ and Christ in us, we are one with Christ and Christ with us); so is the danger great, if we receive the same unworthily; for then we are guilty of the body and blood of Christ our Saviour; we eat and drink our own damnation, not considering the Lord's body; we kindle God's wrath against us, we provoke him to plague us with divers diseases and sundry kinds of death."

Sir, if there be any thing serious in religion:—if the doctrines of the Church of England be not a mere mockery of the human understanding:—if to talk of peace of mind here, and of eternal consequences hereafter, be not the idle babbling of a weak and childish superstition, (and I trust that in the judgment of those who hear me, it will be admitted to be something more) then it will necessarily follow, that no pretexts of state policy can justify this enormous profanation of the most sacred ordinance of the Christian faith,—this monstrous attempt, as irrational as it is profane, to strengthen the Church of England by the debasement of the Church of Christ.

Shall I be told, that the law which enjoins the Sacrament of the Lord's Supper is not more an insult to the Christian faith than the law which enjoins an oath?—A weak and inconsiderate assertion. In what respect is an oath an ordinance of the Christian faith? Do not the Mahometan, the Jew, the Deist, and the Idolater, equally swear? It is not an ordinance of religion, it promotes none of her interests, is applicable to none of her purposes: for the object of an oath is merely civil; it is a human institution, and is applicable only to concerns that are merely temporal.

I have heard it said, that the law does not compel the clergyman to administer the Sacrament to the unworthy. Sir, the terror of the suit for damages, the mere expense of which, independently of the final issue, would be ruin, is itself compulsion. But suppose the reverse to be true, and suppose also that the time at which I am now speaking were a time of war. Our fleet is preparing to sail; the enemy's fleet is already in the Channel; the officer appointed as our admiral, is a man of the highest professional merit, and is called to the command by the general voice of the people. Debauched, however, in his private life, living in avowed fornication, and notoriously profane—he approaches the holy table. If the Sacrament be administered to him, in what situation is the clergyman? If it be refused him, in what situation is the kingdom?

Such are the preposterous consequences that follow, when religion is perverted from its genuine object, and made the instrument of purposes that are merely human. I should have thought it not unbecoming in the bishops to have solicited the removal of this scandal from the Church;

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but let the requisition come from what quarter it may, sure I am, that, as legislators, a compliance with it belongs to us as a duty; for whatever tends to the debasement of religion, diminishes political authority, and weakens the sanctions of civil discipline. Thus I have shown the various bearings of these pernicious statutes. To the judgment of the House, to your wisdom as senators, to your patriotism as citizens, to your feelings as men, I now submit the consideration of the proposed repeal; perfectly convinced that you will not permit the continuance of laws unjust in their principle, unwise in their political effect, inconsistent with all religious regards, and therefore every way hostile to the interests of the State.

Mr. Beaufoy then moved, that an Act made in the 13th of Charles the 2nd, intituled "An Act for the well-governing and regulating of Corporations," might be read: and the same was read accordingly. He also moved, that an Act made in the 25th of Charles the 2nd, intituled, "An Act for preventing dangers which may happen from Popish Recusants," might be read: and the same was read accordingly. He then moved, "That this House will, immediately, resolve itself into a committee of the whole House, to consider of so much of the said Acts as requires persons, before they are admitted into any office or place in corporations, or having accepted any office, civil or military, or any place of trust under the Crown, to receive the Sacrament of the Lord's Supper, according to the rites of the Church of England."

Sir *Harry Hoghton* observed, that whilst he seconded the motion, he felt himself justified in contending that all restrictions were improper; that the Church had not any cause whatever for harbouring the slightest jealousy, especially as the wish of the Dissenters did not extend beyond the accomplishment of the restoration of their rights and privileges; and that they were entitled to every favour, as having been the constant supporters of the Protestant Succession, and zealously united, upon every occasion which had presented itself, for the inviolable maintenance of the interests of their country. At once vulgar and illiberal were those prejudices which induced a part of the community to affirm that the Dissenters, actuated by ambition, endeavoured to get themselves erected into an independent establishment. Far from it. They only desired (and surely it was not possible to form a wish more rational and free from objection) to become participators of the civil rights of their fellow-subjects, in addition to that religious tolerance which at the present period they enjoyed. Liberality of sentiment and freedom, were, doubtless, essential even to the support of the constitution of the country; nor could any man the least versed in the history of the revolutions of various kingdoms avoid recollecting how many dreadful consequences had arisen from the animosities which were the offspring of a difference in religious tenets. The present age had been described as one most eminently enlightened. To give the picture a resemblance, it seemed indispensably requisite to wipe away these animosities for ever.

Lord *North* remarked, that although he was a sincere friend to the present religious establishment, and even allowed that a complete toleration, in the true meaning of the words, was proper; and that if any actual point remained behind to render the toleration granted to the Dissenters still more complete, it ought to be brought forward; he felt himself under the necessity of opposing the motion. Having premised thus much, he trusted that no one who heard him would prove so uncandid as to conceive him actuated by a blind and bigoted spirit of intolerance, and illiberally inimical to a freedom of opinion upon religious subjects. If the present motion went no farther than for the fair and free exercise of the rights of conscience, he should be the last man upon earth to deliver an opinion against it; but his motive for rising was to act the part of a good citizen, and not to lay any heavy burthens on the consciences of any individual. He had heard reports that the Dissenters wished to gain more than civil privileges; but as this suggestion was contradicted by the two hon. members who had spoken upon the subject, his doubts on that point were done away, and he gave every belief to the assertion of those hon. gentlemen. He should have been glad if the Dissenters had proceeded in a more regular manner, and had stated the grievances under which they laboured, by petition to the House: yet, he was not insensible that great and liberal minds should show a virtuous eagerness to relieve unasked, to anticipate the wishes of their fellow-subjects, and when a natural way to act thus laudably was known, it ought

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undoubtedly to be always adopted. The doors of that House stood open to all petitioners; and if a petition had been delivered, stating their grievances, he doubted not but the justice of the House would have redressed them, if they were really proved so burthensome in their nature. They had, however, chosen to adopt another mode of bringing their case before the House; and they seemed rather to depend upon the weight and abilities of the hon. mover and seconder of the motion, than on the justice of their cause. But he wished, before the House came to a vote, to see on what grounds the motion stood. It prayed for the repeal of an Act which was the great bulwark of the constitution, and to which we owed those inestimable blessings of freedom which we now happily enjoyed. It recommended procedures contrary to the happy experience of a century. The Dissenters appeared desirous of having such and such privileges granted to them, and a line drawn which they were not to exceed: that line he was glad to say, was drawn; and as far as related to the worship of God in their own way, they had no grievance to state, but their entreaty was to have the restriction from being enabled to fill offices taken off. In the year 1778, a finishing stroke was put to restriction; a general toleration was then granted. If (continued lord North) there remains any thing which can operate as a burthen on any man's conscience, in the name of Heaven let it be done away; but let not the admitting of persons of particular persuasions into the offices of the state be confounded with the restriction of conscience. If this Government finds it prudent and necessary to confine the admission to public offices to men of particular principles, it has a right to adhere to such restriction; it is a privilege belonging to all states; and all have exercised it, all do exercise it, and all will continue to exercise it. If Dissenters claim it as their undoubted, their natural right, to be rendered capable of enjoying offices, and that plea be admitted, the argument may run to all men. The vote of a freeholder for a representative to parliament is confined to those who possess a freehold of 40*s.* or upwards; and those not possessing that qualification, may call it an usurpation of their right, by preventing them from voting also. We are told that other countries have no test acts, and that their established churches are not endangered for the want thereof. France has Protestants at the head of her army and her finances; and Prussia employs Catholics in her service; but it must be considered, that those are arbitrary governments; that the King alone in those countries is to be served, and can, at pleasure, remove or advance whom he pleases. The King of England, being a limited monarch, can do no such thing; he is bound by those restricted laws as much as his subjects. Holland admits men of all religions into her army, because, not having subjects enough of her own, she is obliged to have recourse to foreign troops; but there is no place where they restrain their civil officers more to the established principles of the country. The same may be said of Sweden.—It had been urged, that by the Corporation and Test Acts, any man who refuses to submit thereto, is subject to the same punishment with those who may be convicted of great and heinous crimes; but that is not the fact: no man, because he does not choose to receive the Sacrament of the Lord's Supper, is subjected to any punishment whatever. The Act holds out punishment to those who fill offices; and they are punished for wilfully flying in the face of an act of the Legislature. If the Act went to force every other man to take the Sacrament, or inflict a penalty on him, it would indeed be a grievance, and he would most readily concur in having it repealed.—Lord North denied that any indignity was offered to the Dissenters, by not admitting them to offices, unless they qualified by the Test Act. Have not the country (said he) resolved that no king or queen should sit on the throne of the British empire who refused to comply with the Test Act? If the throne was offered to any prince who would not comply from motives of conscience, the refusal of the throne to him would be offering him no indignity, no insult. Gentlemen should not, then, lightly talk of insults and stigmas thrown on any set of men who do not choose to comply with any particular forms. If all were to be admitted on the principles of national right, there would be an end to all rules and orders; for no rules could be drawn by the Legislature but what would be broken through. The Corporation Act was made at a time when many disturbances were occasioned by the Dissenters, who were principally instrumental in all the consequences which followed. All who then wished for peace,

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and for the preservation of the constitution in Church and State, called for the measure, which was then, and which he now considered, as a wise and political measure; it was and is necessary to confine offices in corporations to those who are well-wishers to the Established Church. We are called upon by the hon. mover to proceed as France has done; but he would rather proceed according to the experience of England, who had enjoyed peace and harmony in the Church by those Acts. It had been said, that when the Test Act was made, the King himself was suspected of being a Catholic, and that the presumptive heir had openly avowed himself a Catholic; that it was not meant to act against the Dissenters, but against the Papists: but he would say that the Parliament who passed it knew how far it extended; they knew that it included both. The Corporation Act clearly meant to exclude the Sectaries, and was not meant to extend to the Papists; but it did exclude both; and when the Parliament passed both those Acts, they knew both Papists and Dissenters were included. Charles the 2nd, we are told, prevented by dishonourable means the repeal of those acts; he thought that the repeal was wisely and patriotically refused. It had been the general means of princes, who had particular objects to attain, which they could not do while every sect remained as it was, to endeavour to confound all sects; that when the door of innovation was once opened, they might pass on until their object was gained. What was the opinion of Parliament at the Revolution? That Parliament was sharpened by the miseries which they had experienced, and by the horror of danger; they deliberately went through all the Acts, and repealed every one except the Test Act, which they considered as a mere civil and political regulation; they preserved it, and they thought it necessary for the safety of the Church, and for the preservation of the constitution. By that Parliament a just line was drawn for the relief of conscience on one hand, and for the safety of the Church on the other. The Test Act was the corner-stone of the constitution, which should have every preservation. King James, when he wished to gain the prince and princess of Orange to his views, desired to have their opinion on the propriety of repealing the Test and Corporation Acts. The answer of the Prince of Orange was, that he agreed to the removal of the Corporation Act, but not to the Test Act; and he declared it to be the practice of Holland to confine all civil employments to those who professed the principles of the States, but that the army could not be so restrained, on account of the want of troops. Nothing brought James so speedily to the crisis of his fate as the Test Act, which restrained him, and rendered it impossible for him to fill all offices civil and military with those of his own sect, which he hoped to be enabled to do by gaining the repeal of the Test Act, and then there would have been an end to all liberty. Tyranny would have stolen silently on, until it had been so deeply rooted as to render all endeavours against it vain. He conceived it to be the duty of every member of that House to prevent that which in a future period might subject the nation to the same dangers which it had before experienced. If the Scotch had any hardships, if they had any grievances, they would have been ready enough to have laid complaints before the House, and there were many gentlemen of that country in the House who would be ready enough to state those complaints if any existed.—His lordship then adverted to the Union with Scotland, which he looked upon as a most sacred compact, and which ought not to be touched with a rash hand. He contended that the Established Church was on as sacred a basis, and that those who wished for no innovation on the Union, should guard against any attack on the Church. Proceeding next to the arguments of the hon. mover with respect to the clergy of the Church, who were forced to give the Sacrament to all who desired it, lord North remarked, that so far from its being the wish of the clergy of England to gain a repeal of the Test Act, they were all alarmed at the intention of proposing the repeal, and were determined to resist it with their greatest strength. Every minister (he continued to observe) is bound by his holy office to refuse the communion to any unworthy person. If he refuses according to law, by law he will be justified; the fear of an action should not prevent a man from doing his duty; if he is right, where can be the fear of an action? He will gain honour, and the person bringing the action will have a considerable expense, attended with disgrace. The clergy are situated now in the same manner that they were before the Test Act; they could

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then, and they may now, upon proof, refuse to administer the Holy Sacrament of the Lord's Supper to any unworthy character. The Sacrament is administered as a test of being well affected to the Church; some test is necessary, and must be taken. If the Sacrament, in many instances, was taken unworthily, he feared that many false oaths were taken; and could that operate as a reason for the abolition of oaths, which, in many cases, are absolutely necessary? The Legislature is not to be answerable for the consequences of the Sacrament being taken unworthily, or for false oaths: and if any other test could be devised to answer the same purposes, he would willingly adopt it. If the plea of birth-right is argued, on that ground may Catholics also claim admission. It had been contended that times have changed; that then a Papist was on the throne. God be thanked, they were changed; but might they not be changed again? It might be said, that there was now no danger of Jacobitism: the family was reduced to two brothers, one of whom being in priest's orders could have no legitimate offspring, and the other was very old. But there might be danger in breaking down the barrier which had heretofore guarded the constitution. They all knew the perilous nature of a cry, "the Church is in danger;" and that an incendiary watching his opportunity, might cause as great a tumult, and as much mischief by that cry, as by the cry of, "No Popery." Though we owe much to the Brunswick line for the blessings of liberty which we enjoy, much is also owing to the Church for its promotion of harmony, by its submission to the government, and its liberal principles—principles which have encouraged bringing forward the present motion. They found no complaint of ecclesiastical tyranny, no church persecution; let us not, then, confound toleration of religious principles with civil and military appointments. Universal toleration was established; let them then be upon their guard against any innovation on the Church; the constitution was always in danger when the Church was deprived of its rights.

Lord *Beauchamp* supported the motion, and declared, that he considered the Test and Corporation Acts as persecuting and oppressive. Every act of toleration would decrease bigotry, while persecuting laws only tended to the increase of sectaries. By granting a repeal of those acts no danger to Church or State would follow. There never had been a Presbyterian faction with the power of government in their hands; nor could there be any fear of their gaining such power. The Dissenters were a body of meritorious men, men firmly attached to the country, and who ought to enjoy every privilege in common with their fellow-citizens.

Mr. *William Smith* remarked, that with respect to the objection advanced against the manner of introducing the motion, and the argument, that the Dissenters should have come forward with petitions stating their various exceptions against the Test Act, it seemed fully sufficient to answer, that the table could not have contained all the petitions which, in such a case, would have been sent up. Amongst the Dissenters there were hardly any dissidents upon this subject; though the most rigid amongst them conceived, that by a repeal of the Test Act the bond of union would be taken away. Charles 2. owed his restoration to the Dissenters; but they were weakly credulous, and had not the precaution to take proper assurances from him for rewarding their services, and therefore, after they had served his turn, he neglected them. The number of the Dissenters was of late much decreased; and therefore, if the argument that they were formidable to Government could be supported, it must be, that they were formidable from some other cause than their number. Could it be from their superior talents? No. From their favour and means of patronage? No. What advantages, then, had they? They could not even make an exciseman; they were by no means an object of terror to Government; but, on the contrary, a depressed persecuted class of men. Mr. Smith then argued, that the receiving the communion as a qualification for offices was prejudicial to the spirit of the established religion, and stated some instances in which the Sacrament had been improperly administered, and others in which the minister had been involved in litigation on account of his having refused it to improper persons; and from thence he drew an argument, that a religious test was improper for a political institution.

Sir *James Johnstone* observed, that although he was determined to vote in favour of the motion, he should not presume to give an absolutely decisive opinion upon the subject: it lay between the

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Kirk and the Church of England: he knew not which pretended to be in possession of the most unexceptionable religion; but he was sure that the Presbyterian religion was the cheapest in its practice, and consequently the least expensive road to Heaven: and seriously, that religion deserved the greatest encouragement which permitted and taught its professors to serve God with a purity of mind towards Him, and a disinterestedness of heart towards all human nature. The hardships complained of most certainly did not extend in the degree suggested against those who accepted of military employments. He, for his own part, had served in the army; yet without having found it necessary to conform in the manner required: in fact, officers gave themselves very little trouble about the thirty-nine articles, or rather they were ignorant of all articles—except the Articles of War.

Mr. *Pitt* said, that the very able manner in which this motion had been discussed by the noble lord in the blue ribbon, rendered it unnecessary for him to detain the House a moment upon the subject; yet he could not with decency give a silent vote on such an occasion. He then entered into a discussion of the distinction which it was necessary to make, between a participation of the offices of state and liberty of conscience; he observed, that this was not an application to relieve a class of men from any reproach or distinguished odium, nor from penalties; for the Dissenters were at present in possession of all indulgencies: they had nothing to fear, either from the spirit of the religion which we professed, or from the constitution; and the question now to to be considered was very different; it was, whether it was or was not expedient to deprive the Legislature of a discretionary power now vested in them? This must be considered as a political power, not the right of the individual; a distinction must be made between political and civil liberty. He then went into a discussion of the difference which obtained in the exercise of these two rights, and from thence made a deduction, that it was impossible to separate the ecclesiastical and political liberties of this country. Mr. Pitt next observed, that there must be restriction of rights in all societies; that all the modes of representation must include or render necessary some mode of qualification. Is a man, said he, to be considered as marked with infamy, because he does not vote for a city, a county, or a borough? The true question now to be regarded is, is there any substantial interest that makes it necessary for one part of the community to be deprived of participation? Certainly this deprivation should not take place, unless there is reason to see substantial inconvenience in the participation. There is another class equally respectable and numerous, whose fears upon this occasion will be alarmed. The members of the Church of England, a part of our constitution, will be seriously injured; and their apprehensions are not to be treated lightly. If I were arguing upon principles of right, I should not talk of alarm; but I am arguing upon principles of expediency. The Church and State are united upon principles of expediency; and it concerns those to whom the well-being of the State is intrusted, to take care that the Church should not be rashly demolished. The persons who make this application, have already obtained a full right of public teaching and of instruction of children; but they have not a participation of offices: this is what they desire, and if this is granted them, they may obtain an influence in corporations: the benefit is not so immediate to them in counties; there they only mix with the general mass of voters, therefore towns and corporations will be their object. The danger which there would be in their gaining such an influence, has already been pointed out. I will not say that such a danger is probable, though I will not say that it is chimerical; it is reasonable at least to say, that if they saw an opening fairly before them, they would produce changes: there is a natural desire in sectaries to extend the influence of their religion; the Dissenters were never backward in this, and it is necessary for the Establishment to have an eye to them. —Mr. Pitt contended, that it must be conceded to him, that an established church was necessary. Provision for the ministers was of the essence of church government; but surely the State could not think it expedient to assist them in such an attempt: they say, that they meant nothing of that nature by this application; but I must look to human actions, to find out the springs that move them. There are some Dissenters who declare, that the Church of England is a relic of Popery; others, that all establishments are improper. This may not be the opinion of the present body of the Dis-

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senters; but no means can be devised of admitting the moderate part of the Dissenters, and excluding the more violent: the bulwark must be kept against all; and I am endeavouring to take every prudent and proper precaution. It has been said, if you grant this, they will soon come to you to grant something more. This will not weigh with me. I will not object to concede what I ought to concede, because I may be asked to concede what I ought not to concede; and yet this concession may be coupled with the danger of being pressed by future demands. As to the argument used about the decreasing the number of Dissenters by consenting to this application, it is a mere speculation.—Mr. Pitt next remarked, that an exclusive corporation brought into the hands of the Dissenters, was a very different thing from a dissenting member sitting in that House. When a member was chosen by members of the Church of England, jointly with Dissenters, he was more likely to come in with principles friendly to the constitution than if he were chosen by Dissenters alone: in this latter case he would play the interest of the Dissenters against that of the Established Church. Much had been said about the Bills of Indemnity which were necessarily passed every year: but how do they recognize that the Test and other Acts are nugatory? They only show a disposition in Government not to enforce the Acts farther than the necessity of the State requires. It was properly argued by the noble lord in the blue ribbon, that the establishment of the Church of Scotland stands upon the Union; and surely a Scotch member of this House would not think this a question upon which he ought to vote. The question is, whether we think ourselves justified in parting with this security, unless we are assured that the constitution will not be changed; especially upon such an application as this, which states the Test to be full of all inconveniencies, but proposes no substitute.—Mr. Pitt then replied to the arguments which had been drawn from the mischief which would arise from the action against the clergyman of the Church of England, and observed, that there was nothing in the Rubric that supposed a clergyman to be acquainted with all the circumstances of the life of a communicant. The crimes which it was incumbent upon him to object to, must be glaring; nor could it be imagined, that the State could be deprived of the service of an admiral or officer of the navy or army on the ground that they were the most profligate of men, and ought not to be communicants. In discussing this question, gentlemen would do well to consider, whether any other test would not be more objectionable. It is the right of every legislature and every state to make those tests which they think will be most conducive to the public good; and I cannot vote for the repeal, without alarming a great body of the Legislature. I must also enter my objection to those arguments which state, that a seclusion from office, unless certain restrictions founded on the policy of state are complied with, is a punishment in itself. It has been deemed a very necessary and proper measure by those who formerly held and those who now hold a great stake in this country; and I do not see any reason to consider the seclusion of the Dissenters more as a mark of infamy than any other distinction that upholds political government. These were his ideas, retaining which, he could still declare that he had the highest opinion of the present race of Dissenters, under all the descriptions which the hon. mover had comprehended. A spirit of moderation prevailed, which strongly recommended them to the protection of Government; and so far as the enjoyment of every mental privilege, of perfect toleration, and of complete freedom to serve God according to their conscience, they possessed it in the most ample degree.

Mr. *Fox* observed, that however he might of late have been charged with the odium of coalition, that odium was not imputable to him that night; yet, if he had heard only one part of the argument of the right hon. gentleman who spoke last, unexplained by the other parts of his argument, he should have found himself in a coalition with him upon the grounds of that argument, namely, that it was right to oppose the repeal of a test, which shut out Dissenters who would not allow that any establishment was necessary; but the right hon. gentleman had afterwards carried his arguments against all those who had applied indiscriminately. Mr. Fox then asserted, that the general conduct of the Dissenters was praise-worthy, and that in all former times they had been actuated by principles of liberty not inconsistent with the well-being of the State. He then adverted to the argument of the Chancellor of the Exchequer respecting

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the test, and endeavoured to show, that religion was not a proper test for a political institution. With regard to the argument used by the right hon. gentleman to prove that those Acts operated to exclude persons from corporations, though not from sitting in that House, he should contend that they had not that effect; that there were corporations which were entirely filled by Dissenters, and that he knew of two such corporations. The mischiefs in Charles 2's reign arose not from the Dissenters, but from the governing part of the Church of England: he said, he was supported in this assertion by the authority of a great writer, Mr. Locke. The opinions of the heads of the Church of England were not to be a rule for the political conduct of that House; for they were as decidedly against passing the Bills which that House passed six or seven years ago in favour of the Dissenters, as they were upon the present occasion. In deciding upon questions of that nature the electors of the representatives of the Universities were likely to be warped more strongly than the electors of other representatives of that House: this was to be lamented; but he did not mean to cast any reflections upon the motives of their conduct. The Church of Scotland had not found a test necessary there for the Episcopalians. The right hon. gentleman had stated, that by this repeal the Dissenters would not be obliged to contribute to the provision of the members of the Church of England; it was absurd to argue that as a consequence; it did not follow: this motion went only to take off the seclusion of offices. Mr. Fox dwelt some time upon this point. He then asserted, that the argument that there must be one establishment was absurd; two establishments might exist in one government; they actually did exist, and he instanced the Church of England and the Kirk of Scotland. He confessed that the Test Act did not operate directly as a stigma upon the Dissenters; but at least it carried, and it was a fair argument to say, that the Dissenters will be glad to be excused paying to the maintenance of the Church.—Mr. Fox then said, What are you doing to secure the establishment of this constitution? You are taking religion as religion for a test in politics. He then combated the propriety of such a measure. With respect to clergymen giving or refusing the Sacrament, he observed, that if the clergyman of the parish refused, he subjected himself to an action; and supposing that he found means to get through the inconveniencies of the litigation, what was the consequence? Why, that having refused the man the Sacrament, he had disabled him from being qualified to hold the office; for the man could not take the Sacrament from another clergyman, and thus there was vested in the minister of a parish a power superior to that of any ecclesiastical court.—Mr. Fox then spoke of the principles which had governed the Dissenters in this kingdom, and said, they were persevering and active in their application for redress of their injuries in former times; and if they used the same perseverance now, they could not fail of success; that he would advise them to repeat their applications till the Legislature gave them that redress they desired. He had considered himself honoured in acting with them upon many occasions; and if he thought there was any time in which they had departed from those principles which were inconsistent with the constitution of this country, he should refer that period to a very recent date indeed; on a recollection of what had been their conduct upon that occasion, the House would at least do him the justice to say, that in supporting them that day he was not influenced by any very obvious motives of private partiality or attachment; yet he was determined to let them know, that though they could upon some occasions lose sight of their principles of liberty, he would not upon any occasion lose sight of his principles of toleration: he should therefore give his vote for the motion; but at the same time observe, that if there could be any modification of the penalties without repealing much of the Act, it might be matter of instruction to the committee, and perhaps would prove more palatable to the House; yet, as the matter stood at present, the right hon. gentleman opposing the motion might be said, though disclaiming persecution in words, to admit the whole extent of it in principle.

Mr. *Pitt* begged leave to assure the right hon. gentleman, in answer to his mis-statements, that he could not have been so absurd as to say, that by repealing the Test the Dissenters would avoid being obliged to contribute to the provision for the clergy of the Church of England. He had only stated, that if the Test were repealed, it might put the Dissenters into a situation to make other

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state regulations, which in their consequences might affect that provision. The right hon. gentleman had also, in the first part of his speech, mis-stated another of his arguments. He had never said, that the persons who now applied were of that description of Dissenters who would not allow that any establishment was necessary: he had only stated, that there were among Dissenters, men who maintained those tenets; he would say whom he meant; they were a class of Dissenters in Cambridgeshire, and he should name the minister of the congregation, Mr. Robinson. As to the persons who now applied, nobody respected them as individuals more than he did; as a body, they had, on many occasions, evinced a disposition to resist the encroachments of arbitrary power; the nation was under obligations to them for the assistance which had been derived from their zeal and activity; and if he were to name the time in which he conceived that they had given the strongest proof of their regard to the liberties of the country, he should name the very period in which the right hon. gentleman had asserted, that they had lost sight of their original principles.

Mr. *Fox* confessed, that he had misunderstood those parts of the right hon. gentleman's arguments.

Sir *William Dolben* said, that he must beg leave particularly to animadvert upon that spirit of moderation which had been described as the characteristic of Dissenters: that moderation he denied, and he should appeal to a pamphlet written by one of their body, where the contrary was very strongly established; the pamphlet to which he alluded was that which the Chancellor of the Exchequer had been pleased to praise, though he acknowledged he had not seen it; and he begged leave only to trouble the House with one sentence from it. It stated, that their silent propagation of the truth would, in the end, prove efficacious; for they were wisely placing, as it were, grain by grain, a train of gunpowder, to which the match would, one day, be laid to blow up that fabric which never could be again raised upon the same foundation. Such were the doctrines which the Dissenters avowed; and therefore he called upon every man who had any regard for the civil and religious rights of his country, to be cautious how he gave his vote for a question so pregnant with danger.

The House divided:

Tellers.

Yeas	Mr. Beaufoy Mr. Plumer	98
Noes	Sir William Dolben Mr. Young	176

So it passed in the negative.

Debate in the Commons on the Articles of Charge against Mr. Hastings—Presents.] April 2. The order of the day having been read for the House to resolve itself into a committee of the whole House, to consider farther of the several Articles of Charge of High Crimes and Misdemeanors against Warren Hastings, esq. late governor-general of Bengal, the Speaker left the chair, and Mr. St. John took his seat at the table.

Mr. *Sheridan* now rose, and desired that a clause of the Act of 1773 might be read. It was accordingly read, as follows: "No governor-general, nor any of the council, shall, directly or indirectly, accept, receive, or take, of or from any person or persons, or on any account whatsoever, any present, gift, donation, gratuity, or reward, pecuniary or otherwise, or any promise or engagement for any of the aforesaid." Mr. Sheridan then begged leave to call to the recollection of the committee the favour which a right hon. friend (Mr. Burke) had, on a former day, conferred upon him, when he informed them that it was his intention to use as much brevity in opening the charge upon the subject of the presents as possible. In this declaration his right hon. friend had certainly spoken his sentiments; and as a part of the evidence given during the course of the preceding Friday, threw a decided light upon some of the facts which were, previously to the intervention of that complete elucidation, in some degree obscured and doubtful, he felt with a redoubled force his early and indisputable conviction, that brevity and perspicuity were the only things necessary to imprint the truth of the facts contained in the charge upon the perceptions of the committee; and to press home to their minds a lively and indignant sense of the enormity of the crimes of Mr. Hastings, as exemplified in these several and distinctly-alleged accusations, if either the one or the other point remained yet to be accomplished. Honoured, upon a former occasion, with the almost unprecedented indulgence of the committee, he would not offer so ungrateful a return to the li-

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berality of their feelings, as to suppose that they would not do him the justice to believe that it was far indeed from any great willingness on his part that he had been induced to trespass a second time upon their patience; but, when he considered that it would ill become him to refuse his feeble aid to those who had, with equal zeal, in this momentous cause, stept forward, as much as it was possible, under the inevitable restraints of an attention divided by occupations more multiplied and varied than his own; when he considered the importance of the proceeding with respect to the impeachment of Mr. Hastings; when he reflected how much the character of that House and its honour, and, what was still more material, the honour and justice of the country, were implicated in the business; when he consulted his own serious and sincere feelings on the subject, he could not refuse to lend himself to the occasion, and discharge his duty by exerting his best endeavours to accelerate the progress of this interesting business, by assisting to draw it nearer to that conclusion, of which the distance appeared, at last considerably diminished.

The subject which at present demanded an investigation, was necessarily much colder and drier than that which, upon a preceding occasion, he had been so liberally permitted to state to the committee. No horrible accounts of the sacrilegious plunder of defenceless parents were now to be addressed to their painfully-excited notice; no enumeration of barbarities perpetrated against aged and guiltless mothers by their unnatural offspring; but the narration was nevertheless equally, if not still more important, as it went to establish the stubborn fact, that corruption had been the leading principle of all the actions of Mr. Hastings in India. Though, Heaven forbid that Mr. Hastings should prove guilty to the extent set up by his friends, in what had been denominated his defence! Perhaps more hostile than truly serviceable was the anxiety with which the advocates of this gentleman met the deserved attack upon his flagrantly-reprehensible administration in the East Indies. They seemed mortally to have wounded the cause, by the rash eagerness which they discovered to support it, and by the firmness with which they were determined to bring resistance against every endeavour to assail it. They appeared unwilling to admit, that Mr. Hastings in India was a man of unbounded power, and that by this power he kept the whole body of the natives in awe and terror. Once, indeed, (Mr. Sheridan added) he thought him free from the vices of avarice and corruption; but now he had changed his opinion. These most unfortunate vindicators, themselves demolishing their own frail plans of exculpation, had indeed already anticipated the accusation in that House; and in no particular did their zeal so far outstrip their discretion. Such rash defenders of his conduct, aware that scarcely any attainment was wanting except a conviction of the receipt of presents, and of an accumulation of private douceurs, to blacken the catalogue of his crimes, and to destroy all those pretensions which could in the minds of men soften their asperity, and allay their indignation at his enormities, had violently affirmed that Mr. Hastings did not amass treasures for his own use, was not corrupt for interested purposes: and although, perhaps, improvident and profuse, was not mercenary, and, by a natural consequence, not rich. But it indispensably behoved them to go beyond the frivolous attempt to establish such positions by mysterious excuses, and language so complicated as to become nearly unintelligible. They should have placed their vindications of him upon the broad and immoveable corner-stone of truth, upon downright, fair, and absolute proofs; and this the more especially, because, if the points for which they, with so blind a vehemence, had contended, were open to the admission of proofs, the means of introducing them were certainly in their power. Vainly, indeed, had these imprudent friends of Mr. Hastings exerted the faculties of their invention to puzzle and to confound the mind; nor was it astonishing that such extraordinary pains had proved the cause of raising a proportionate suspicion; for in this, as in the generality of similar instances, when genius became racked under the consciousness of guilt, the ardour of defence left its propriety at an irrecoverable and shameful distance. There was an infirmity, a weakness, a something not to be described in human nature, which, almost insensibly, led men to think less of the foibles or the crimes of such individuals, whilst it could be proved that they had not been actuated by mercenary motives; that they had not proceeded upon a principle of personal avarice; and that the increase of their own private property had not been the

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object of either their rapacity or their oppression. Swayed and influenced by this sort of weakness, Mr. Sheridan declared, that he had been among those who at one time conceived that Mr. Hastings was not stimulated to his conduct, as governor-general, by any view to his own emolument; and that his fortune was trifling, compared with the advantages which fell within his power; but the more close and minute investigation which it was his duty to apply to the facts contained in the charge, had completely altered his opinion, and he scarcely harboured even the slightest doubt of being able to satisfy the committee that Mr. Hastings had all along governed his conduct by corruption, as gross and determined, as his oppression and injustice had proved severe and galling. In reviewing his conduct, he had found it to spring from a wild, eccentric, and irregular mind. He had been every thing by fits and starts. Now proud and lofty, now mean and insidious; now generous, now just, now artful, now open; now deceitful, now decided; in pride, in passion, in every thing changeable, except in corruption. In that he had proved uniform, systematical, and methodical; his revenge a tempest, a tornado;—his corruption a monsoon, a trade-wind that blew regularly and constantly.

Mr. Sheridan added, that whilst he relied upon the power of exposing fully to the view of the committee the criminal proceedings of Mr. Hastings, he could not avoid observing, that the nature of his private transactions was such as rendered it, in general, extremely difficult to drag them out into a full light. They were the deeds of privacy, enveloped in a cloud of mystery. The committee would please to recollect the history of the Act of 1773, which was passed with a view to deliver the princes of India, and the natives in general, from the consequences of the rapacity of the Company's servants. They must well remember that it did, in the most clear and comprehensive terms which could be devised, prohibit all the said servants from receiving any present, gift, or donation, in any manner, or on any account whatsoever. That Act, when it left the House of Commons in the form of a bill, had no clause in it authorizing the institution of a civil suit, but merely contained the authority and grounds of criminal prosecution of the parties accused of having violated positive injunctions. When the Bill, however, came into the House of Lords, although the Commons had been satisfied with the fair prospect of a future security and prevention of the evil which it held out, a noble earl, of the highest law authority (the earl of Mansfield) expressed a different opinion, and had deemed it so necessary to take all possible means of putting a stop to a practice so oppressive to the natives of India, and so disgraceful to the British name and character, that he inserted a clause, declaring that all presents accepted by the Company's servants, on any account whatsoever, were the property of the Company, not meaning it as a fund for their benefit, but only in order to found a legal title to a civil suit, upon what is termed a fiction of law. Thus strengthened, the Bill passed and went out to India. The construction, however, which Mr. Hastings put upon it was, that by the Regulating Act of 1773, he remained at liberty to receive money, provided that it was to and for the use of the Company; and, under this construction, he did, in a variety of instances, violate as clear and obvious an act of parliament as ever had passed; an act of parliament concerning the legal meaning of which Mr. Sheridan said he was persuaded there was scarcely a lawyer in the House who would stand up and declare, that he had at any time entertained the smallest doubt, or felt the least difficulty. It might be most unanswerably proved, from the words of Mr. Hastings, that even he, notwithstanding his infringement of so positive and plain a law, considered the Act as amounting, under all descriptions whatsoever, to an absolute prohibition. When colonel Champion, in his letter written to this gentleman, requested to know from him whether he should be justified in receiving a present offered to him, the governor-general answered, that the Act was so strict and specific in its injunction as to admit of no palliative; of no discretion on the part of the conduct of the servants of the East-India Company; that it was so plain that it could not be misinterpreted, and so strict that it could not be infringed. And surely, said Mr. Sheridan, it was with this view only that the Act was carried into a law by the British Legislature, who could not mean to transfer to the Company, the exclusive privilege of that injustice, from which its servants were so strictly prohibited. It was a libel on the Parliament to think that they could intend to confer such an illegal and despotic power. Mr. Has-

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tings had also ventured to ask, whether, under the penalties denounced in the clause, it could, with the least shadow of reason, be concluded, that if he designed to violate it by recovering money for his own private use, he would either select, as his agents, the public officers of the East India Company, all men of established characters; or pay the sums which he meant to appropriate to his own purposes, into the treasury of the Company? A totally overthrowing answer to this question would be involved in the proofs now ready to be offered to the committee, that Mr. Hastings had not suffered all the little sums which he took privately, either to pass through the hands of the public officers of the East India Company, or to be paid into the treasury. On several occasions, he employed his own agents. If not, where was the possibility of accounting for his declaration to the Court of Directors, that the receipt of three lacks from Nobkissen, might, if he had thought proper, have been concealed from their knowledge for ever? And thus it was that, with a disrespectful haughtiness, Mr. Hastings took the liberty to upbraid and censure the Directors of the East India Company for ever taking his conduct into consideration, or questioning him in respect to that which they had a right to know. He, besides, libelled them with the intimation, that unless they would connive at his keeping his share, they should not participate in the plunder—he urged them to say: "for taking the money, you are censurable; but, in applying it to our use, you are deserving of praise." And such would virtually be their declaration (a species of logic well calculated to set his mind at rest!) if they granted him on this head that full and direct acquittal which he claimed and expected.

Besides his plea of the construction of the Act, which he set up in opposition to the obvious meaning of it, he vindicated himself in the transgression of his orders from the Court of Directors, whenever their sense could not be twisted, by the arguments of state necessity. This necessity, however, which goes so far as to supersede all positive instructions, should be evident as well as urgent. Mr. Hastings never attempted to prove the existence of the necessity. The doctrine of state necessity, assigned in every case, this new and firm ally of self-interested rapaciousness, was not to be received on the present occasion. The point in question would not warrant the excess of his presumption, when pleading in the defence of his violation of a positive law. Whatever Mr. Hastings might have done with the money so extorted, was out of the question. If he had applied it properly, the measure might be suffered to come forward hereafter, in extenuation of his guilt; but, in the mean time, the committee were to look to his disobedience of orders; to his infringement of the Act of Parliament. Under this view of the procedure, it must be manifest that every rupee which he received was taken in full defiance of the law; and that an action would lie against him for the recovery of the penalties. Much had been imputed by Mr. Hastings to the generosity of the natives. He did not question this virtue in the natives of Hindostan—neither did he doubt the expertness of Mr. Hastings in working upon it most effectually. For, with so much power in his hands—with an army of fifty or sixty thousand men—he had, most certainly, the means of exciting in their breasts the flame of benevolence!

As to the facts of corruptly taking presents, they naturally divided themselves into two heads; those which preceded the Regulating Act of 1773, and those which subsequently had arisen. He would begin with the latter, as they were more likely to elucidate the whole charge; and, first, he would mention the present of the year 1780, of two lacks of rupees, received of Cheit Sing, by the hands of his confidential servant Buxey Sadanund. The present was received in June, but never mentioned to the Directors until the relation of the circumstances formed a part of the contents in Mr. Hastings's letter of November of the same year, and then it was not stated from whom the money came. In his defence Mr. Hastings had, for the first time, at the bar of the House, deposed that the money came from Cheit Sing; and that acknowledgement had, perhaps, been occasioned by his having learnt that an honourable member (Major Scott) had previously declared, when under examination before the select committee, that the money came from Cheit Sing. Mr. Sheridan now read major Soott's examination; and, commenting upon it, observed, that in one of the answers the hon. major declared, that he believed Cheit Sing and the other native princes would much rather give Mr. Hastings a present of two or more lacks of rupees, than pay

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them to the Company as part of their debt to the British Government; a position which clearly proved—not the generosity of the native princes, but—that the government of India was founded upon a system of corruption. But such (it had been urged) were the prejudices of the people! Could it be seriously imagined—and this at a time whilst, as he should beg leave to impress again and again upon the minds of the committee, five lacks of rupees were due from that Rajah to the East India Company—that, although the acceptance of the gift of the two lacks of rupees by the Governor-general of Bengal, was not, perhaps, attended with a promise of relaxation in the enforcement of the Company's demand, no friendly and seducing hint had been given of so generous a design? A raw and artless negociator might not, indeed, have thought of any compromise, but have pursued the obvious line of conduct to one not half initiated into the practices of extortion. Such ignorance of the true methods of procedure could not, without injustice, be imputed to Mr. Hastings! The boon with which this gentleman was privately presented, did not, however, divert his indefatigably faithful zeal from the prosecution of the demand of the East India Company; yet, at the same time, it must be confessed, that so valuable a gift was no inconsiderable drawback from the pecuniary powers of the Rajah to satisfy such a demand: and, indeed, the facility with which this plundered individual was made to submit to private extortions, only rendered him a more convenient tool to work upon in every case of public depredation. Two lacks of rupees might be considered merely as a palatable whet to the voracity of his appetite; and more money was the great cure in view for an inveterate disorder, when that wretched invalid, sir Elijah Impey, underwent a dangerous and most fatiguing journey, purely for the benefit of his health! With regard to the readiness of the native princes to make presents, let a governor-general, possessed of all the powers of government, and at the head of an army consisting of 60,000, and sometimes of 100,000 men, led and commanded by European officers, throw himself on the bounty of a people, and doubtless (as he before remarked) an unbounded spirit of benevolence would prevail. But, to return to the present of Cheit Sing:

In his defence, Mr. Hastings declared, that in 1780, he had formed the plan of drawing Mhadajee Scindia from Guzzerat to the defence of his own dominions, in hopes of laying the foundation of peace with the Mahrattas, but that the plan had been opposed by an hon. gentleman (Mr. Francis) on account of the additional expense which it would occasion. About that time, Cheit Sing sent his confidential servant, Buxey Sadanund, to Calcutta, to endeavour to procure a remission of the payment of the annual sum of five lacks of rupees, which the Board had fixed as his proportion of the expenses of the war. That request, Mr. Hastings peremptorily refused; but assured Sadanund, that on the restoration of peace, the annual subsidy of five lacks should be discontinued. Sadanund wrote to his master, and received a commission from him to give Mr. Hastings the strongest assurances of his future obedience and submission to the orders of Government; and he was farther directed to request his (Mr. Hastings') acceptance of two lacks of rupees as a present for himself. His reply was, that he cordially received his submission and assurances of obedience, but that he must absolutely refuse his present, which he did. This (Mr. Sheridan said) was a sentence in which the words, as the fact afterwards proved, were a little transposed; for the truth was, that Mr. Hastings cordially received the present, and absolutely refused to accept Cheit Sing's submission and obedience; since it appeared, that, on the 20th, Mr. Hastings sent for Sadanund, and told him he had reconsidered his master's offer, and would accept the two lacks of rupees, and the very next day (the 21st) he entered the minute, under the authority of which the prosecution of that unfortunate prince was begun, and from whence it was pursued to his ruin. Other men, perhaps, dissimilar in their views and temper from Mr. Hastings, might have deemed it necessary to return the gift at the commencement of hostilities against the Rajah: but the Governor-general, still inviolably faithful to the great principle of his system of peculation, resolved not to lower his importance by giving back that money which he had once so condescendingly agreed to accept! And, here, his proud and surly dignity broke out in all its plenitude. Having taken a sum against law, although the purpose for which he grasped at it was frustrated, he scorned either to acknowledge the fact or to relinquish the money. The reason of this was obvious. Finding

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Cheit Sing so easy a dupe to private extortion, Mr. Hastings instantly marked him out as an object for public plunder.

Having stated this transaction, Mr. Sheridan took notice of the strange manner in which Mr. Hastings had acted with respect to this present. To read the whole of the correspondence with gravity, was, he declared, utterly impossible; for such a mixture of the diverting and the disgusting appeared in almost every letter, that the effect was at once most seriously ludicrous, and ludicrously serious: but, he would just turn to an extract or two relative to the case in point. Mr. Sheridan then read a part of Mr. Hastings's letter of November 1780, as follows: "My present reason for reverting to my own conduct on the occasion which I have mentioned," (his offering a sum of money for the Company's service) "is to obviate the false conclusion, or purposed misrepresentations, which may be made of it, either as an artifice of ostentation, or the effect of corrupt influence, by assuring you, that the money, by whatever means it came into my possession, was not my own." Mr. Sheridan commented on this, and then stated the conduct of the Directors respecting it, in all whose letters concerning presents, were to be found declarations to this effect: "Forasmuch as you have taken presents, we greatly disapprove of your conduct; but, inasmuch as you have applied those presents to the credit of our account, we highly approve of your conduct." It seemed evident that, upon one occasion, nine lacks of rupees had been received, and only six lacks brought into the treasury of Calcutta: the remaining three were not as yet accounted for; unless it could be thought a sufficient elucidation to declare, that they were in the hands of Cantoo Baboo, Mr. Hastings's black bribe-broker. But, was it probable that this man, absolutely dependent upon the Governor-general, and having amassed an immense fortune under his auspices, could have retained so large a sum of money within his hands? No! suspicion naturally, not to say unavoidably, turned round to the principal. Yet, in their letter of January, 1782, the Directors did not appear to be satisfied with Mr. Hastings's account of the whole proceeding; but, pronounced it at once extraordinary and mysterious. That it was mysterious, was undoubtedly true; for in such facts as taking of presents, and the mode of applying them to the Company's use, he would venture to assert, that there could be no mystery without the excitement of a just suspicion of guilt. The Directors in their letter observed, "It does not appear to us, that there could be any real necessity for delaying to communicate to us immediate information of the channel by which the money came into Mr. Hastings's possession, with a complete illustration of the cause or causes of so extraordinary an event." And in the same letter, speaking of this sum taken from Cheit Sing, and of other monies of a similar description, they said, "We shall suspend our judgment, without approving in the least degree, or proceeding to censure the conduct of our Governor-general for this transaction." The next time the Directors heard any thing more of this, was by a letter, dated the 22d of May, 1782, as Mr. Larkins had sworn, but not sent till the 16th of December in the same year; and singular was the fate of this letter of the Governor-general, which had, in so extraordinary a manner, been delayed in India! This letter Mr. Larkins, with officious care, would not deliver until the very moment in which the ship sailed, because he well recollected that letters had been either forgotten or mislaid if given to the captain long before the departure of the vessel. The Resolution was the last ship of the season dispatched for Europe; but it was not sufficiently well manned to carry the Governor-general's letter, although the Governor-general declared that his 'good genius' had dictated its contents. The Resolution was thought safe enough to bring him a rich freight, many valuable bills and bonds, and a variety of important letters and dispatches; but had the Governor-general's letter been put on board the vessel, such a weighty cargo would undoubtedly have sunk her to the bottom of the ocean! That packet could only be brought home securely in the Lively. It should appear, therefore, that there was something in the very name of the ship which lent the letter safety, and adapted itself to its style and contents: and yet, this most unlucky letter appears, indeed, to have met with as many strange and unexpected disappointments as that written by the miserable Romeo, and intrusted to the care of Friar John. How equally unfortunate, also, must it have proved if the Lively had been absent upon any other station. Some impure article might probably have made its way into the hold of the ill-manned and crazy Re-

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solution! The superstitious piety of Mr. Larkins might perhaps have inclined him to apprehend, that in such a case the Resolution would have foundered, have sunk perhaps in the Ganges, without even one convenient diving negro near to rescue the important letter from the devouring waves! Yet, even thus rescued, the letter might have suffered under a total and dreadfully irremediable obliteration of its interior contents, with not one single vestige of writing left, excepting the address: and, after all, (intrepid though the sailors are) the Resolution had not a crew sufficiently daring to venture upon carrying to England—the justification of Mr. Hastings!

On this occasion, it seemed fair to say, why not send the letter to Madrass for the chance of a ship from that settlement? Mr. Larkins dispatched this letter from the country and to Mr. Auriol, the secretary at Calcutta: yet, he would not touch it, but caused it to be returned, declaring that it was contrary to the act of parliament for any of the Company's servants to write home to the Directors. Thus it failed in one instance. Mr. Sheridan stated how it had failed in others, and traced all the circumstances which had tended to impede its being dispatched by the Resolution, till, just on the eve of its being sent away, Mr. Larkins advised Mr. Hastings to open it, in order to suffer him to make an affidavit, that it was written on the 22nd of May, and to let the affidavit accompany it. Mr. Larkins accordingly took an affidavit before Mr. Justice Hyde, that the letter had been written by him on the 22nd of May, from rough draughts, furnished by Mr. Hastings. This was a proof that Mr. Hastings thought the letter of the most serious importance to himself, and that it was extremely material for him to establish the fact, that it had not been written on the pressure of the suspicion; but that the mean imputation to which the delay exposed him, from the occasion which the late parliamentary inquiries had furnished, was a matter to be regarded by him as extremely unfortunate. Undoubtedly, the run of much ill-luck had gone against him; and so unpromising were appearances, that it did not require any great share of incredulity to suspect that the letter was written, not before, but after he had heard of certain changes in the politics of this country, which might make him at length adopt a new opinion, with respect to the best artifice for his own security, and conceive that a voluntary confession would prove one of the least fallible preservations from detection. The conduct of Mr. Larkins, most certainly, was suspicious; and Mr. Sheridan said he trusted that no person would do him the injustice to conceive that he harboured cruel, and, of course, unworthy notions against mankind, when he observed that he saw the workings of gratitude so powerful in the hearts of individuals as to eradicate every other feeling of duty. Mr. Larkins had taken the most extraordinary pains to acquit his friend and patron, Mr. Hastings. How well his efforts succeeded, the committee must determine. Mr. Sheridan said, he should now beg leave to enter upon a short investigation of the second money-transaction, which Mr. Hastings had represented as having some affinity with the former anecdote; and this was a demand upon the council for money of his own, described as having been expended in the Company's service, to the amount of 34,500*l.*, for which he had desired to have three bonds. And here it seemed necessary to refer to the defence of Mr. Hastings respecting the circumstances of this transaction. In that defence, the Governor-general stated, that being, in the year 1783, in actual want of a sum of money for his private expenses, owing to the Company's not having at that time sufficient cash in their treasury to pay his salary, he borrowed three lacks of rupees from Rajah Nobkissen, an inhabitant of Calcutta, whom he desired to call upon him with a bond properly filled up; that Nobkissen did call; but, when Mr. Hastings was going to execute it, Nobkissen entreated that he would rather accept the money than execute the bond. In short, that he neither accepted the offer, nor refused it, but kept the Rajah, during the space of several months, plunged into a state of the most tormenting anxiety: and now it might seem reasonable to imagine, that, at last, the matter dropped: quite the contrary: Mr. Hastings took the money, but neither gave the bond, nor was mean enough to think of returning the money; his pride forbad it: it was a fresh proof of the dread which the natives entertained of the Governor's pledge of faith. "Take my money, and welcome," said Nobkissen, "but place me not within the peril of your promise; pledge not your faith to me! I know too well the consequences; I have heard of the Treaty of Chunar; I

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have heard of the usage of Fyzoolah Khan! I have heard of other shameful circumstances which followed the most solemn engagements of the Governor-general of India!"

Thus did Mr. Hastings fill the breast of this unfortunate man with painful apprehensions, lest when he returned home he should find a bond thrust, perhaps, underneath his door at midnight, or by some unworthy stratagem placed upon his table. He knew too well, that all who had been honoured with his favour became irrecoverably ruined. His various guarantees, his treaties, and his sacred compacts, with every lamentable consequence, were present to his afflicted imagination. The rapacity of Mr. Hastings he could tolerate; but he shrunk with horror from his protestations and his pledge of faith; a most unanswerable proof, that of all the monied men plundered by the Governor-general, Nobkissen entertained the truest notions of his character. In mercy, however, Mr. Hastings came away from Calcutta without acting so cruelly as to send Nobkissen the bond, or so pitifully as to repay the money; and, upon this occasion, it ought to be recollected, that Nobkissen was notoriously the most avaricious black man in Bengal; but, in the description of this insatiable thirst for money, it was not meant to draw an invidious comparison between the Rajah and a disinterested European! He would not insist on the unprecedented charge of contingent expenses for a period of more than twelve years; nor on the particulars of this charge, which was principally for translating the Mahometan laws, which he had destroyed, and other services of a nature equally useless. In that famous letter which, in his progress to Lucknow, he wrote to the Directors, he had the assurance to request that this sum might be allotted to his use, that he might not be doomed to poverty and obscurity, after a life spent in the accumulation of crores for their advantage. But he had gone farther; he had taken it upon himself to place this sum to his credit without the consent of the Company; thus paying, contrary to law, a debt which he had contracted against authority. This proceeding could not be justified by Mr. Hastings, even on the principles which he had himself laid down in his construction of the Regulating Act: for here he must acknowledge, that he had taken money privately, which he did not apply to the use of the Company, but to his own; as, whether he seized it in the first instance, or paid it to himself afterwards without authority, it was exactly the same. Hitherto nothing arose, except mystery and obscurity in the transactions, and in the defence made by the Governor-general; but if the committee were disposed to think, that no circumstance could exceed those to which he adverted, they were mistaken—for all was simplicity and plain-dealing itself, when compared with what followed!

He should next offer to the consideration of the committee a manœuvre (of which the particulars were not included in the charges) for the humane purpose of squeezing ten lacks of rupees from the Nabob Vizier, at Chunar. The circumstances of this transaction had been too recently discussed to render much additional information necessary. This generous act was to assume the curious form of the refusal of an offer which the Vizier was supposed to have made. Mr. Middleton, the resident appointed by Mr. Hastings; Mr. Middleton, the identical man who had gone such lengths with him before, on a sudden became conscientious: and, like a tick with a plethora of blood, was satiated with plunder:—quite gorged, and torpid! Even he wrote to Mr. Hastings, that he could not think of accepting this offer, (which, however, the Nabob had not at any time made), and major Palmer was actually sent to persuade him not to keep the resolution to which he had come, of presenting Mr. Hastings with another 100,000*l.* Thus by a kind of ingenuity, by a perversion unknown in this dull climate, conveying a demand for money under the form of declining to accept it! Concerning this circumstance, it appeared reasonable to remark, that when major Palmer and major Davy called upon the Nabob for the money, the latter declared that he had never before heard that so extraordinary a demand was in contemplation! And how deeply must the merciful feelings of the committee be wounded, when they advert to the contents of a letter, from this unfortunate and persecuted prince to Mr. Hastings, in which, painting in the strongest colours his extreme distress, he complains bitterly of the exaction; yet says, "being remediless, I felt myself obliged to comply with what was required;" and then he concludes with this artless and affecting observation; "Blessed as I am with so com-

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passionate a friend as your highness, how does it happen that I am reduced to such a state of miserable distress?" On this occasion, he must beg leave to enforce strongly upon the attention of the committee, that the reasons advanced to justify the seizure (for it was far from meriting a milder term) of the 100,000*l.*, the time when it was paid, the manner in which it was paid, and the persons to whom it was paid, had been all brought into full view, and unanswerably stigmatized as the false ststatements by the Governor-general. He had written word to the Directors, that the exigency of his affairs, the want of cash to pay the army with him, and other pressures, had caused him to accept the present of ten lacks of rupees, at the moment when he knew that the Nabob Vizier's affairs were in a state of the extremest indigence. Upon that ground, he had vindicated the taking of the 100,000*l.*; but it came out afterwards, in the most positive declaration, that he had not the sum in cash, but in bills on Gopal Das, not payable until the expiration of some succeeding months. If that were true, his first ground of justification failed him; for the immediate wants of the army could acquire no relief from bills on Gopal Das, which had still several months to run. In the list of the persons to whom the money had been paid, the name of Mrs. Hastings was inserted. He should have felt great uneasiness at taking the liberty to introduce a lady's name in such a business, if it had not been for her complete exculpation; but the fact stood thus: The entry of Mrs. Hastings's name and those of the other persons, as the receivers of the sum, was a fallacy; and it was equally a fallacy that the ten lacks were paid by bills on Gopal Das; because that man was at the time detained by Cheit Sing; and let the committee ask themselves, if the Governor-general would not have had more credit with Gopal Das than this miserable, moneyless, and ruined prince? Great part of the sum given was paid in rupees, and it was clearly a portion of the plunder of the unfortunate princesses, the mother and grandmother of Asoph ul Dowlah. As to the Nabob, his distracted supplications were of no avail, and his treasury was swept without the least attention to his prayer, that his rapacious pillager would leave him at least as much as might prove sufficient for the ordinary charges of his household.

Mr. Sheridan next stated the application of the Rajah of Berar to the Governor-general and council for a sum of money to relieve his affairs by paying his army, the whole amount of which sum was computed at sixteen lacks of rupees. This application was rejected as inconvenient to be complied with; but afterwards the Governor-general took the whole responsibility of the measure upon himself, and lent the Rajah of Berar three lacks.—He then mentioned the complaint laid before the council-board by the Rajah Nuncomar, and the 15,000*l.* taken from Munny Begum, to whom was intrusted the sole collection of the revenues. The Directors had instructed him to appoint a minister (a guardian!) to superintend Mohareck ul Dowlah, the young Nabob of Bengal, and manage his affairs: the person whom he chose for this employment was the step-mother of the Nabob and widow of the deceased Nabob Myr Jaffier (an ignorant woman, drawn originally from the lowest class of life, and by Mr. Hastings from the recesses of the Zenana) to instruct her princely pupil in all the arts of future government! This curious appointment would certainly prove more the subject of indignation than surprise to the committee, when they should discover, from unquestionable authority, that it was assigned for the valuable consideration of 15,000*l.* to himself, and the same sum to Mr. Middleton.

Mr. Hastings's transaction with Cawn Jehan Cawn was the next object of Mr. Sheridan's animadversion: this man was appointed Phousdar of Houghly, with an income of 72,000 sicca rupees a year—of which Mr. Hastings was charged with taking half, besides 4000 allotted to his black broker; and the accusation was made, as well as that preferred by Nuncomar, in full council. The council proposed to inquire into the truth of it, and required Cawn Jehan Cawn to answer to the facts upon oath; to which procedure he and Mr. Hastings peremptorily objected; and that Cawn Jehan Cawn could not, by virtue of his religion, take an oath, was the weak excuse of Mr. Hastings; but in the words used in the answer of Mr. Hastings to the charge, he might retort the falsity upon him. Cawn Jehan Cawn was, as a punishment for his contumacy, deprived of his employment; but on the death of colonel Monson, which gave Mr. Hastings, by virtue of his casting vote, a majority in the council, he was reinstated at the motion of the governor. He left it to the

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reflection of the committee, whether any circumstantial proof, and the case would admit of nothing farther, could more clearly trace the guilt of Mr. Hastings, or establish the certainty of private practices of a corrupt nature between him and the Phousdar. The whole was a studied maze of theft, bribery, and corruption, unparalleled even in the most ignominious annals of East-India delinquency. With respect to the unfortunate Rajah, Nuncomar, he was first indicted for a conspiracy; but that failing, he was tried on an English penal statute, (which, although rendered by a stretch of power most dreadfully forcible in Bengal, did not reach even to Scotland!) he was convicted and hanged for a crime (forgery) which was not capital in his own country. Whatever were the circumstances of this judicial proceeding (which might be the subject of another inquiry), they could not fail of exciting apprehensions and terrors in the natives, which would put a stop to all farther informations against the governor. During this transaction, Mr. Hastings, in direct contradiction to the opinions of General Clavering, colonel Monson, and Mr. Francis, repeatedly asserted, that it was repugnant to the manners either of the Mussulmen or Hindoos to take an oath; yet on a later occasion he justified himself in all his proceedings at Benares, by the affidavits of persons of the religion which he mentioned, taken before the upright judge of the supreme court of Calcutta! It had been allowed, in the evidence given at the bar, that all India was in consternation at the event, and considered the death of Nuncomar as a punishment for having advanced charges against Mr. Hastings. Who, after such an event, would dare to step forward as his accuser? None would venture; and the governor might, in future, pillage the natives as he thought proper, without any fear of being disturbed by their invocations for justice. But, this justice, he hoped and trusted, would not be refused in a British Parliament—they owed it to their own dignity, to the support of the resolutions into which they had already entered, to the honour of the country, the prosperity of the government, and the rights of humanity!

The present charge (he should beg leave to repeat) was not perhaps of that nature which came home most effectually to the feelings of men; it could not excite those sensations of commiseration or abhorrence which a ruined prince, a royal family reduced to want and wretchedness, the desolation of kingdoms, or the sacrilegious invasion of palaces, would certainly inspire. Although within this rank, but infinitely too fruitful wilderness of iniquities, within this dismal and unhallowed labyrinth, it was the most natural to cast an eye of indignation and concern over the wide and towering forests of enormities; all rising in the dusky magnificence of guilt; and to fix the dreadfully-excited attention upon the huge trunks of revenge, rapine, tyranny, and oppression; yet it became not less necessary to trace out the poisonous weeds, the baneful brushwood, and all the little, creeping, deadly plants which were, in quantity and extent, if possible, more noxious. The whole range of this far-spreading calamity was sown in the hot-bed of corruption; and had risen, by rapid and mature growth, into every species of illegal and atrocious violence. Upon this ground, most solemnly should he conjure the committee to look to the malignant source of every rooted evil, and not to continue satisfied with reprobating effects, whilst the great cause enjoyed the power of escaping from merited crimination, and the infliction of a just punishment. He now moved, "That the Committee, having considered the present article of charge, and examined evidence thereupon, is of opinion that there is ground for impeaching Warren Hastings, esq. of high Crimes and Misdemeanors upon the matter of the said article."

Major *Scott* rose and said:—I am very sorry, Mr. St. John, that it should fall to my lot to rise immediately after the hon. gentleman who has just sat down. I am sensible of the disadvantages under which I labour at all times, but more particularly after the House has been for two hours entertained by the wit, humour, and ingenuity of the hon. gentleman: but though I cannot contribute to the entertainment of the House, this I will promise you, that I will confine myself to a plain unvarnished narrative of facts; nor will I attempt to deceive you by a misrepresentation of a single circumstance. I shall pursue the subject in the same order that it has been taken up by the hon. gentleman. The first present is that which was received from Cheyt Sing in June, 1780. The hon. gentleman has said, that, on the 22d of June, the very day after Mr. Hastings received this present, he came to the board with a hostile minute against Cheyt Sing. I affirm, Sir, that this assertion is

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utterly unfounded, and I shall proceed to prove it incontrovertibly. When Sadunund, Cheyt Sing's Buxey, first applied to Mr. Hastings, it was to procure a remission of the five lacks which Cheyt Sing had paid as a subsidy from the commencement of the war. This request Mr. Hastings peremptorily refused to comply with, and afterwards the two lacks were given, not with the hope that it could purchase forbearance of a public demand, but to atone for a former resistance to that demand; and it was accompanied by a promise of implicit obedience, as long as the war lasted, to the demand for five lacks. On the 22d of June, 1780, Mr. Hastings proposed in council, the year being then near the close, that these five lacks should be demanded, and appropriated to a specific service. Mr. Francis and Mr. Wheler agreed to the demand. It was made some time after; one lack was paid, and the remainder faithfully promised; and here, Mr. St. John, it happens that I can, from my own knowledge, pursue the subject, with confidence that a gentleman now in London (Mr. Fowke), who was then resident at Benares, will confirm what I say, though I have never mentioned a syllable about it to him, nor have I seen him since his arrival, except for half a minute, by accidentally meeting him in Bond-street. I was appointed in May 1780 to command a battalion of Sepoys stationed in Chunar. I joined my corps in July, and had frequent conferences with Cheyt Sing at Ramnagur, who often mentioned to me his inability to pay these five lacks; and he never used another argument against the demand. I went, by Mr. Fowke's desire, with him to the Rajah, on his disappointing him of the money, after he (Mr. Fowke) had been ordered by the Board to receive and remit it to lieutenant-colonel Camac. Mr. Fowke used every argument in his power to induce the Rajah to pay it, and represented to him the fatal consequences that might be expected if he did not. The Rajah continued obstinate, declaring his total inability; and it was after this breach of his word that measures were taken against him; first, to fine him a lack of rupees, and then to march two battalions to Benares: but if Cheyt Sing had kept his word with Mr. Hastings, he had been secure. Now, Mr. St. John, to the first present. Mr. Markham has proved that Mr. Hastings took these two lacks from Cheyt Sing for the Company's use; and Mr. Markham brought a proof to the committee, (which it was thought informal to receive,) that Mr. Hastings took the earliest possible opportunity to make this transaction public in England. Mr. Markham told the committee, that he had with him a copy of part of a letter from Mr. Hastings to Mr. Sulivan, dated in August, and sent by a Danish ship, in which Mr. Hastings relates the circumstance, and authorizes Mr. Sulivan to make any public use of the information which he thinks proper. Mr. Sulivan was at that time deputy chairman, and when he received the letter, chairman of the Court of Directors. In November, Mr. Hastings made the communication to the Court of Directors. The hon. gentleman seems surprised that it was not done earlier; but surely he knows that November is the first month for the dispatch of the Company's ships; and that it is only on extraordinary occasions packets are sent earlier. It is true, Mr. Hastings did not mention to the Directors from whom he received it; an omission, which, I am confident, was intended to answer no private purposes; and the moment I knew the circumstance, I communicated it very generally in England, and gave it in evidence to the select committee. Mr. Hastings, perhaps, thought he did all that was necessary, by saying the money was not his own, and that he neither could nor would have received it but for their service.

The next sums received were from the men who farmed part of the province of Bahar, Denagepore, and Nuddeah. Mr. Anderson's evidence proves, that these were *bonâ fide* received for the public service, and that no influence was at any time used by Mr. Hastings to prevent the committee of revenue from realizing every rupee that was due by agreement from them to the Company. There was no other mode by which a supply could at any time be raised for the public service, and to the public service every rupee was faithfully applied. The next sum was the present of ten lacks from the Nabob Vizier and his ministers, paid by bills upon Gopaul Doss. This present was received on the Company's account, and expended in their service as soon as received. The hon. gentleman has played upon the word 'deposit,' as if Mr. Hastings had put the money up, 'because he told the Directors, "if you shall adjudge this deposit to me:" but the fact is directly the reverse. How

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far the hon. gentleman will tax Mr. Hastings with presumption, in asking the Company to give him 100,000*l*., I know not. Mr. Hastings knew that the Company had given lord Clive 600,000*l*., and that they had rewarded other servants. His conduct had been approved: he had received their thanks; and perhaps it did not to him appear unreasonable to desire from the Company a fortune adequate to his station, since it was owing to inattention, and not to extravagance, that he did not possess it. The hon. gentleman professes to doubt, whether this money was applied to the public service, in direct contradiction to positive evidence now upon the table of the House; for there is a paper, signed by Mr. Annis, the auditor at the India House, stating the precise periods when this money was received. The present was made in September 1781; in October above half a lack was received; in November two lacks and a half; in December near two lacks; in January 1782, above four lacks and a half; in February a small sum, and in March the payment was fully completed; and at the close of the account is this memorandum: "This is the amount stated in the Governor-general's letter, 22nd May 1782; and, with other sums received by him, was applied, in general, to defray the Durbar expenses, to make advances to the military, and on various other accounts." The particulars of all those other accounts are at the India House, and may be produced at any time. In fact, there is not the smallest reason to suppose, that Mr. Hastings ever had the most distant idea of appropriating to his own use a rupee that he received, from any evidence before the House; and I shall, before I sit down, state the impossibility of his having entertained such an idea, by arguments drawn from his general character and conduct.

I now come to speak of the times that the Court of Directors were informed of these transactions, and of the steps which they took in consequence of them; from which I trust I shall be able to prove, that if Mr. Hastings mistook the law, (which I believe he did, because very grave and weighty authorities say so) he mistook it in common with the whole Court of Directors, his Majesty's present Ministers, the Board of Control, and every person who has been in a responsible office, since 1780 to this day, except the right hon. gentleman (Mr. Fox) opposite to me. In answer to the first communication of the 29th Sept. 1780, the Directors say, the circumstances appear extraordinary; that there might be good reasons for concealing the receipt from the knowledge of the Board, but not from them; and they withhold their final opinion till they hear farther, but not a word as to the illegality of the act. This paragraph underwent the inspection of the Treasury, when lord North was at the head of it.

The account of the present received for the Company from the Nabob Vizier in September 1781, communicated in Jan. 1782, arrived in England in July 1782: that letter was answered when an hon. baronet, sir Henry Fletcher, was chairman; and the answer is well worthy the attention of the House. It states, that the Directors could not, were they so inclined, give Mr. Hastings that money, because he was absolutely precluded by law from receiving presents; and they go on to state, that, by the same law, all presents received or taken shall be held and deemed to be taken to and for the sole use of the Company; they therefore approve of Mr. Hastings having applied that money to the Company's service, and order him to abide by the act of parliament, in that case made and provided. This letter had the sanction of the Treasury, when the present minister was Chancellor of the Exchequer. Now, Mr. St. John, if there is sense or meaning in language, the sense of the paragraph is, that Mr. Hastings could not receive money for himself, but he might receive it for the Company.

Before this letter arrived in Bengal, and before it was known that any parliamentary inquiries had been commenced respecting Mr. Hastings, he, on the 22nd of May 1782, sent them an account of the complete receipt of the Nabob Vizier's present of ten lacks, and of the sums, to the receipt of which Mr. Markham, Mr. Anderson, Mr. Larkins, and Mr. Croftes, had previously been privy. The hon. gentleman has been wonderfully ingenious in his description of the various modes adopted by Mr. Larkins to send this letter to England; but, Sir, I do hope and trust, that when the House shall be disposed to listen to sober reason, they will permit me to rescue the character of that gentleman from the aspersions that have been thrown upon it. Mr. Larkins is universally esteemed by all who know him, both in England and in India, as a man of the most strict and rigid integrity; as a man, on whose honour and uprightness the slightest

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suspicion has never been cast. I could appeal to an hon. gentleman, who has ably and honourably filled the chair of the Directors, (Mr. Nat. Smith) to confirm all I have said of Mr. Larkins. He has faithfully discharged, for 14 years, an office of the greatest labour and of the first importance in Bengal, that of accountant-general; and I have never heard one man insinuate that he has acquired a rupee, except from the savings of his salary. The oath of a man of this description is not to be treated lightly; and I trust in the honour, the justice, and the good sense of this House, that a speech of wit and humour will not so far mislead them as to induce gentlemen to form ideas injurious to a respectable and absent man. The hon. gentleman affects to disbelieve the affidavit, because the letter might have been sent by the Resolution Indiaman, though all her dispatches were forwarded on the 9th of May, and this letter was written on the 22nd. An unexpected accident detained the Resolution; but I put it to the hon. gentleman (Mr. Francis) to say, whether any man in Bengal would have sent a letter by the Resolution on the 28th of May, badly manned as she was, with the chance of losing her passage, and the certainty of making a circuitous and long one; when the Lively, a fast-sailing packet, was expected to sail in a short time; and though she was very unexpectedly detained, she was in fact the first and quickest conveyance after all. "But," says the hon. gentleman again, "why not send the letter to Madras for the chance of a ship from thence?" Does he not know the difficulty and length of the voyage from Bengal to Madras in May and June? Does he not know that Suffrein's fleet was then in the bay? And does he not know that the communication by land was very precarious, owing to the Carnatic being over-run by Hyder's horse? These are all forcible reasons against sending the letter by any conveyance by sea from Bengal to Great Britain. But though a gentleman of genius can misrepresent and distort facts as he pleases, no conscientious man, I am sure, in or out of the House, will for a moment doubt the truth of Mr. Larkins's deposition.

I come next to the reception in England of this letter of the 22nd of May 1782, announcing all the presents, and the following letter of the 16th of December. These arrived in May 1783, when the duke of Portland was minister, and sir Henry Fletcher chairman of the Court of Directors; but no sort of notice was taken either by the Directors or the Ministers, (to whom the letters were officially delivered,) of so flagrant a breach of a positive law. It is true, the right hon. gentleman (Mr. Fox) mentioned it in his speech, when he opened his India Bill; but rather, as suspecting that Mr. Hastings meant the money for himself, than stating it as a breach of the law, to receive it for the Company. Every gentleman knows the fate of that Bill, and of that administration. And now, Sir, I come to the share which his Majesty's present ministers had in this business. Mr. Hastings, in his letter of the 16th Dec. 1782, had said he was ready to answer upon honour, or upon oath, to any questions that the Directors should put to him, relative to these presents. On the 16th of March 1784, a few days previous to the dissolution of Parliament, the Directors wrote to Bengal, that they had received their Governor-general's letter of the 22nd of May, and the 16th Dec. 1782, and the accounts; (by-the-bye, they had been ten months received!) that they did not mean to express their doubt of the integrity of their Governor-general; on the contrary, after having received the sums, they approved of his bringing them to their account: yet, as he had voluntarily offered to answer any questions they might put to him, they desired to know why he concealed the receipt of these sums from his council, and the Court of Directors; and why he took bonds for some of the sums, and entered others as deposits. By law the paragraph was approved by the right hon. gentleman (Mr. Pitt); and was it not extraordinary, that not one minister, not one lawyer, not one Director, thought of saying to Mr. Hastings, "What are you about? You are acting against law; you have no more right to receive money under the act of the 13th of the King, for the Company, than for yourself; and, for God's sake, return what you have received, and take no more." No such thing, Mr. St. John; and if Mr. Hastings has mistaken the law, every power in this country mistook it too.

This letter of the 16th of March 1784, arrived in Bengal the latter end of Aug.; Mr. Hastings was then in Oude. He returned to Calcutta the 5th of November, resigned his government in February, and arrived in England in June following, having omitted to answer this letter. He wrote to inform the Directors of his ar-

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rival; and he told them that he was ready to give them every information in his power, on any points that had been omitted in the dispatches. To this letter Mr. Hastings received a very flattering reply. He was publicly received by the Court, who returned him their unanimous thanks, for the long, faithful, and able services he had rendered the Company. Not one question was then, or since, asked him, relative to those presents; and it was at my instigation, that he wrote the letter from Cheltenham, to the chairman of the East India Company. I was anxious upon this head, because, convinced as I am of the purity of Mr. Hastings's character, I should have been concerned indeed, that he should have neglected so material a letter. It was written the 11th of July 1785, and I have a right to assume in argument, that it was completely satisfactory to the Court of Directors, and the Board of Control, because Mr. Hastings referred them to Mr. Larkins, their accountant-general, if they wished to make any farther investigation; they made none. Had they had any suspicions, can I suppose so ill of the Directors, or the Board of Control, as to think that they would not have ordered a complete investigation in Bengal, by their governor-general and council? They neither did this, nor did they call upon Mr. Larkins: for the letter sent from Mr. Larkins is in reply to the requisition from Mr. Hastings, not from the Company. Surely, then, it will be a refinement upon injustice to blame Mr. Hastings, in 1787, for not having completely explained all those presents, when he had so far explained them to the satisfaction of the King's ministers and the Directors in 1785, that they never called for farther evidence, though complete evidence was in their power.

I have now, Mr. St. John, brought the statement down to the present time. The hon. gentleman said, he once thought Mr. Hastings free from the vices of avarice and corruption; but he had changed his opinion. He has not assigned a single reason for that change of opinion; and I will beg leave to mention circumstances, which carry conviction to my mind, that Mr. Hastings never had an idea of converting a rupee of those, or any other presents, to his own emolument. I hold in my hand, Sir, an anonymous pamphlet, which I believe to be written by an hon. gentleman opposite, (Mr. Francis), and it is whimsical enough, that in this pamphlet, Mr. Hastings is not called upon to prove how he comes to have so large a fortune, but how it happens that he has not a larger; for the hon. gentleman professes his belief, that he has not more than 70 or 80,000*l.* I will just read to you his calculations. If Mr. Hastings were a careful man, properly attentive to his affairs, his fortune would be 420,000*l.* and fractions; if he were, as the world are in general, neither very economical, nor very profuse, he would have three hundred and odd thousand pounds. But were he as inattentive to his private fortune, and as inconsiderate as some gentlemen in my eye, he would now possess 262,000*l.* Now, Mr. St. John, I will take the amount of his whole fortune, and of every thing that could be converted into money, or that, by any construction, could be called his own, and I set him down at much less than half of the last sum. "But," says the hon. gentleman, "his fortune has been expended to procure a corrupt interest." Indeed! then the money has been miserably laid out. If, however, Mr. Hastings was desirous of employing his fortune for such detestable purposes, I am the person responsible; for, from the year 1781 to 1785, I had complete power over his whole fortune; for I had permission to draw upon him to any amount I thought proper. But neither did Mr. Hastings in giving me this power, nor did I in receiving it, ever suppose that one shilling was to be expended for the purposes of corruption; and in fact, Sir, I defy any man to say, that in any one act I consulted the private or personal interest of Mr. Hastings. He sent me to England on great public grounds; I acted here with pubic men; and though Mr. Hastings is persecuted and oppressed for the part we took in his absence, by one set of gentlemen, another set felt the advantage of our exertions, and benefit by it at the present moment. It will scarcely be called corruption, to have paid the editor of the Morning Herald, some years ago, the amount of his bill; yet this is the only kind of corruption that I have ever been guilty of; and it was for the benefit of others, more than for Mr. Hastings. It is true, Sir, that I have expended a considerable sum of money for Mr. Hastings, but it was openly and avowedly. I sent him constant intelligence, over land, of every important measure that could affect his government; and in so doing, I have the happiness to say, that I have performed very important

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public services, though the credit of them is due to him. It was by a dispatch, sent out by me at the expense of Mr. Hastings, that the first intelligence arrived in India of the late peace; and so far I was the happy instrument of stopping the effusion of human blood. Perhaps I might go farther, and say, that that account arriving as it did, saved the Carnatic: but though I earnestly advised Mr. Hastings (and I had weighty authorities for that advice) to charge, under the head of secret services, the sums he disbursed for intelligence, he would not do it; and he has paid above 7,000*l.*, which ought strictly to have been paid by the East India Company. Some of his Majesty's ministers for a considerable time interdicted them from sending advices, and I was acting with the leading men of the Company in the public service; facts, which seemed to be acknowledged, when a right hon. gentleman (Mr. Fox) brought in his Bill; but of which many now seem not desirous of preserving a trace in their remembrance. I am not stating it as a matter of praise, that Mr. Hastings has been inattentive to the state of his own fortune, for I think quite the contrary; he is not however singular in this. But surely it is fair to argue, that a man in high station, who had never shown an attention to money, would not practice the most detestable arts of corruption, to accumulate what he did not want. But, Mr. St. John, I have another proof to offer, and it is of a nature that I would not mention, if I could not confirm what I am going to assert, by incontrovertible evidence.

When Mr. Hastings was in Oude in 1784, the Nabob Vizier and his ministers repeatedly pressed him to accept of considerable sums, which he peremptorily refused; and he carried this determination so far, that when in the public court at Lucknow he performed what in India is a very solemn ceremony and expressive of the strictest alliance, that of exchanging a hat and a turban with the Nabob, he made a point of it that the turban should be of plain muslin and without any ornament. After Mr. Hastings's return to Calcutta, and when he had written to inform the Nabob and his minister of his final resolution to resign, he received letters from them, expressing their concern for his departure, and enclosing a note for five lacks of rupees, which they thought he could then accept without scruple. Mr. Hastings received this letter and the note two days after he had resigned the government, just as he had got in sight of the ship; and he wrote the following answer to the person who enclosed it—"I received your letter with the note enclosed in it, and you may judge what my reply must be to that: I thank him for his generous intentions, and hope it is only generous, not mixed with the supposition that it was necessary either to recompense the past, or to purchase the future; I will not accept of the money; I am yet Governor-general, and will retain the character until I have discharged myself of all the obligations of it. I will not allow any man living to reproach me with using the plea of justice, honour, and public faith for covers to my own venality."—I now, Mr. St. John, hold in my hand a letter from Hyder Beg Khan to Mr. Hastings, lately received by him, in which he expresses his concern, that this and another present which I have not mentioned, were returned, and desires to be permitted even now to send them to England: the letter can be authenticated beyond the possibility of contradiction; and I am ready to submit it to any gentlemen (for there are many in England, and some members of this House, who perfectly understand the Persian language) who wish to peruse it. I am willing to grant the hon. gentleman, in its fullest extent, the argument he has used, that Mr. Hastings in India was a man of unbounded power, and that all the natives were kept in awe by his power: let him apply this as strongly as he pleases; but what will he say now? The Ranger arrived about three weeks ago; the charges of the right hon. gentleman (Mr. Burke) had then been some time in Calcutta; his relation, Mr. William Burke, had also been there. Have any complaints been received from one of these suffering millions? The Swallow arrived on Saturday, with letters of the 16th of November from Calcutta; has she brought a single complaint? What will any rational man conclude from this? It was known then, and had been known for months, that Mr. Hastings was only a private English gentleman without power or consequence, but that he was an accused and a persecuted man. He has himself had letters from the Nabob Vizier, his ministers, Fyzulla Cawn, Salar Jung, the brother of the Begum, and is in possession of the most unequivocal proofs of their good opinion of him. If there were times in which they differed, that

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difference was occasioned by exertions for the public service, and not for detestable private views of his own. What says the noble earl who so honourably himself, and so advantageously for the Company and the nation, fills the chair in Bengal? His opinion of Mr. Hastings is universally known: he acknowledged it in England before he went out; he has acknowledged it in Bengal, where, if Mr. Hastings were the man he is represented, lord Cornwallis must have known it on the 16th of Nov. I have seen letters from Bengal which mention, that lord Cornwallis speaks of Mr. Hastings with an enthusiastic fervor; and the fact is too noted to be disputed. However some gentlemen may dislike to hear this, they will be pleased to know, that lord Cornwallis has given universal satisfaction. I hold an extract of a letter in my hand, which, after mentioning the noble earl's opinion of Mr. Hastings, adds, "I like lord Cornwallis exceedingly: he is mild, humane, and just; his government is marked by regularity, vigilance, decision, and strict integrity." Against such a mass of evidence in favour of Mr. Hastings, and against that most conclusive of all arguments, that not one of those stated to be aggrieved by his acts have complained against him, we have to combat only vague and unfounded assertions.

The hon. gentleman has mentioned another present, that of three lacks from Nobkissen: I pass by the speech which he has put into Nobkissen's mouth, merely to proceed to the fact, for it turns again on the point of law. Mr. Hastings did not receive it for his own use or benefit; it was applied to the public service, that is, to discharge a sum fairly due from the Company to himself; the hon. gentleman (Mr. Francis) knows it to be so. In a moment of candour, in 1785, he acknowledged, for I then put it to him, upon his honour, to say, whether he did not think Mr. Hastings had *bonâ fide* disbursed every rupee he had charged; and he replied, he believed he might; but it was the principle of receiving the money privately that he disapproved, and not the contingent charges. Are they disputed? If they are, Mr. Hastings is on the spot to answer, or to repay the money. Another sum the hon. gentleman has mentioned, that is, a second present which was offered by the Nabob to Mr. Hastings, and which Mr. Hastings desired the Nabob to transfer to the Company's account. I can only affirm upon this, that Mr. Hastings never received a rupee of it; and that when the Nabob expressed his unwillingness to pay it, the matter completely ended. This, and the attempt to borrow sixty lacks upon a loan in Oude, were endeavours to procure relief, when every mode of raising money had been exhausted in Bengal, though the necessity of relieving the Carnatic was as great as ever.

As to the facts mentioned in the first part of the charge, I shall pass over them as rapidly as the hon. gentleman; and a short reply will do. I contend that there never can be an end to the argument, if acts done by Mr. Hastings many years ago, and approved of at home, are to be revised, unless more evidence is procured to substantiate the facts alleged: in that case, ten, twenty, thirty, or forty years are out of the question: but if no new lights are produced; and if all the principal lawyers were then of opinion, that in 1775 there was no ground to proceed against Mr. Hastings, there the matter must rest. But I will elucidate this subject farther: twelve Directors, in the year 1776, agreed to remove Mr. Hastings; lord North has avowed that he then wished his removal; the marquis of Rockingham and all his friends as avowedly supported him, and they beat the minister. The Rohilla war, Nuncomar, Munny Begum, and all other points, were urged as reasons for his removal; but those who now prosecute him, then preserved him, more from a spirit of party than justice; for in this country, I am sorry to say, party carries every thing. Two years after the same minister, lord North, who had endeavoured to remove Mr. Hastings, came forward to parliament to re-appoint him: but, abstracted from party, the acts of which Mr. Hastings was accused, are strictly justifiable. Munny Begum was appointed guardian of the Nabob, actually for the security of his person; his life or our security might have been endangered by the appointment of Yeteram ul Dowlah, his uncle, or an ambitious native. The reasons were detailed at length to the Court of Directors, and they fully approved of the appointment. As to Nuncomar, the first character in this country has declared, that "his evidence goes for nothing;" and it is proved beyond a doubt, that Mr. Hastings had no concern in his apprehension, his trial, or his execution. To conclude, Sir, I must believe, because the first lawyers have said it, that

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Mr. Hastings mistook the law; but this I say, that he construed it precisely as his Majesty's ministers and the Directors construed it; and that every rupee he received, was received for the use and benefit of the East India Company.

Lord *Mulgrave* declared that, feeling it impossible to sit silent under observations which had fallen from the hon. major, he should endeavour to repel their injurious tendency, and thus rescue Mr. Hastings from the shame of having such a shabby species of defence brought forward with a view to the establishment of his exculpation. There were many parts of Mr. Hastings's conduct, of which he highly approved, and which he always had, and ever should be ready to applaud: but was it enough to say in answer to charges the most serious and important in every point of view, that since Mr. Hastings had returned, the Directors had commended his conduct? that they had entertained him at dinner, and that some of the members of the efficient Indian government established at home had dined in the same room? Mr. Hastings, he was glad to know, was not to be considered as answerable for all which fell from the hon. major; it was happy for Mr. Hastings that he was not; for the hon. gentleman had that day alleged a crime against Mr. Hastings of ten times the magnitude and atrociousness of any which had yet been brought in charge against him; he had said, that Mr. Hastings asserted that the British government in India must be maintained on the diabolical principle of degrading human nature and disgracing the British name and character in the basest manner; and surely no epithet could prove too harsh and criminating, when applied to the doctrine that the English security in India depended on our keeping the native princes in ignorance. What! could not the government of India be conducted without obliging the native princes to submit to the most abject humiliation and servility? without stripping them of their revenues? totally destroying every semblance of royalty and independence, and every pretension to sovereign power and personal happiness and comfort? Better were it for this country to abandon India for ever, than to continue to hold it on terms so ungracious and derogatory to every generous and manly feeling. Lord Mulgrave next observed, that he could with greater ease speak his sentiments on the subject of the present charge, than on any which had preceded it. On the charge of the contracts, as well as on some others, it was difficult to draw the line between what might be deemed tolerated patronage and a corrupt exercise of power; but in the charge under consideration there was less difficulty: the facts which it contained were not involved in doubt, nor perplexed by being subject to a variety of interpretations. In order the better to state his opinion of it, he should beg leave to appeal to every man who heard him, whether the Regulating Act of 1773 had not been passed with the express view of putting an end to the scandalous extortions which had so long disgraced the British name in India, through the boundless rapacity of the servants of the Company, and to the infinite oppression of the native princes? Before that act, when any man went out to India to accept of a place, the holding of which gave a right to the exercise of power, was it not usual, even before such persons landed in India, for them to make up their minds as to the fortunes which they meant to collect, and even to fix the period when they were determined to leave the country and come home? To relieve the natives from being plundered so shamefully, the Act of 1773 was passed, and Mr. Hastings had that Act sent over to him, as a weapon to defend himself with against the improper requisitions of the army, and as a shield of protection for the native princes.—That Mr. Hastings clearly understood the meaning of the Act and the intention of the Legislature, was evident past all doubt, from his own words. Lord Mulgrave here read an extract of a letter from Mr. Hastings, in which that gentleman defines the words of the Act, and states their meaning to be so explicit, so obvious, and so little liable to dispute or question, that he declares it to be impossible either to be explained away or evaded. And it was well known, that when col. Champion applied for permission to divide ten lacks given by Sujah ul Dowlah to the victorious English army, Mr. Hastings refused his consent, because to have granted it, must have proved a breach of the new act just then arrived, and the least opposition to it must have rendered him open to the penalty. Serviceable and salutary were the powers which Mr. Hastings derived from this Act; for it not only was calculated to serve him as an unerring guide with respect to his own conduct, but might in his

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hands prove a useful check to the ardour of others for plunder through the medium of presents. Lord Mulgrave instanced the case of the army, eager perhaps to seize on the property of the natives, and conscious of having deserved reward by meritorious services: by showing them the Act Mr. Hastings might quiet their impatience and correct their inclination to act improperly. It was intended also as an example to the natives of India of the power of Great Britain and her justice, by convincing them that all her subjects, however high their rank, however extensive their power, were amenable to the same, and that she considered and provided for the protection of all who owned her tutelage with the same parental regard, which characterized her conduct over her own immediate subjects. The pretended construction put upon the Act passed in 1773, by Mr. Hastings, by the Court of Directors, and by the Board of Control, was a construction which neither the Court of Directors nor the Board of Control had admitted or acted upon: if that construction was allowed to be the true meaning and intent of the Act, the very end of passing it would be done away and destroyed. If Mr. Hastings, under colour of receiving presents on the Company's account, might take whatsoever he pleased from the native princes, how would the Act relieve them from oppression, when in fact it would only change the channel of rapacity? In another point of view, let it be considered that the Act expressly stated, that no servant of the Company should on any account receive presents: if any servants of a rank subordinate to that of Governor-general, therefore, took presents, with what face could the Governor-general call them to an account for such a breach of the law, when they might retort upon him and say, "You set us the example: we thought we could not do wrong in copying your conduct." But, let the present have been given to whom it might, the Act was equally unlawful; it was a breach of the laws of that country to which Mr. Hastings was amenable, although he was the Governor of those provinces in the East. Had Mr. Hastings come to that House, and acknowledged his having committed an involuntary breach of the law, instead of thus attempting to screen himself, by presuming on his having acted with the greatest propriety from having paid the money to the Company, he then would have had a claim to the indulgence of the House. Now, he had nothing to expect but the exercise of its most rigid justice. But the enormity of this breach of the law was evinced from a consideration of its principle and the reason of its having been passed. Lord Clive once made a speech, the words of which were exceedingly remarkable and expressive of the state of India, at the time when the Legislature conceived the necessity of immediately passing this Act, to prevent the receipt of any more presents by the Company's servants. Then, presents were so prevalent, that they were made not only from Nabobs and their ministers, but even the lowest subordinates offered them to persons of every avocation, and in every department. It was held out as an incentive to go to India—"You see what a fortune such a Lord has made; how much wealth such a Mr. has acquired." This was the language of that day; and thus were venality and oppression disseminated throughout the country. Then it was calculated how many years it would be necessary to spend in India before a fortune could be made to enable a man to return to enjoy his spoils in his own country with the greatest pomp and opulence. To remove this cause of corruption, rapacity, and oppression, this act was passed. It was therefore highly criminal in Mr. Hastings to have broken this law on any pretence whatever. Again, the Act declared, that each servant of the Company offending against it should be sent home in disgrace; that was a part of the punishment. Could the Governor-general send himself home? In the present instance he was at home, and had thus escaped a part of the punishment due to himself. If Mr. Hastings could clearly establish hereafter, and in another place, that he had not acted in regard to the presents from a corrupt motive, and that he had paid all into the Company's treasury, or accounted for them to their credit, such an ascertainment would doubtless prove a strong ground of extenuation.

Sir *James Johnstone* remarked, that he could not avoid expressing his disapprobation of the arguments urged by the hon. major. If it were true that Mr. Hastings had misunderstood the act of parliament, that the Directors had fallen into the same error, and that the Board of Control and the Government at home were equally in the wrong, as having entertained a groundless opinion, it was high time to mark the

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meaning of the Legislature by some decisive measure. The hon. major had chosen to allude to prophecy; yet, for his own part, sir James said, he should not scruple to confess, that, in spite of laboured panegyrics upon the predicting Governor-general, he reverenced the prophets of old rather more than the new prophet of the present æra. He was glad to hear, however, that Mr. Hastings had repented of his East Indian sins upon the banks of the Ganges, although he greatly doubted, whether all the waters of that river would prove sufficient to wash them away. He concurred in the general and anxious wish, that Mr. Hastings might be brought to his trial; yet not without sincerely hoping, that he might obtain a happy deliverance.

Mr. *Burgess* said, that he differed *toto cælo* from the hon. gentleman who had opened the charge, and from a noble lord, as to their construction of the Act of 1773. He read the words of it, and contended that the meaning warranted by those words was, that the servants of the Company were prohibited from receiving presents on their own account, but not on that of the Company. He produced the Act of 1784, read the clause referring to the Act of 1773, and argued, that if the Act of 1773 had really been liable to the construction contended for, there was not any occasion to insert that explanatory clause in the Act of 1784. It was therefore evident from these clauses, that Mr. Hastings had not committed any breach of law contained in this Act. He had not received the presents for himself, nor had they been received by any other person in his behalf. This had not been either alleged, or attempted to be proved. Even his accusers had acquitted him of this part of the crime. The noble lord himself had not only acquitted him of such an imputation, but had even offered an argument to show his innocence in not having applied the money to his own purposes. For what had the noble lord observed? Why, that so far had Mr. Hastings been not guilty of applying the money to his own purposes, that no evidence whatever was offered to prove that he had committed this act of criminality. If therefore it was universally admitted, that the Governor-general had not applied these presents to his own use, and, as the words of the Act were directed to no other interdiction, it was evident to him, he had committed no breach of the law. The noble lord must have known that the Act did not interdict the receipt of presents by any of the Company's servants, provided they were not taken or applied to their own purposes. No person who had read the Act with the least attention, but must acknowledge that Mr. Hastings was innocent of this part of the charge. Such was the Act, and he was therefore determined to express his sentiments, which he should never be afraid to do in the cause of innocence unjustly accused; and such he was not afraid to pronounce Mr. Hastings on the present occasion. Whatever had been his conduct on other occasions, on this there was no possible trace of criminality.

Mr. *Wilbraham* observed, that the projected trial of Nuncomar for conspiracy, which had been abandoned, and his subsequent trial and execution for forgery, were events which followed so close upon his charge of corruption against Mr. Hastings, as to warrant weighty suspicion, notwithstanding the assertions which had fallen from the hon. major, who pledged himself in that House to refute any charges of corruption which could be brought against the Governor-general; and he trusted the vote to be given that night would convince the hon. major how much he had deceived both himself and that House. His defence of the conduct of Mr. Hastings, with respect to his persecution of Nuncomar, was of a piece with the hon. gentleman's other misrepresentations, and carried with it equal weight in his opinion. But what would be said of Mr. Hastings, when it was recollected that he shrunk from the inquiry, at a time when it might have been fully investigated, and he even courted the present inquiry at this remote period. It was an inquiry which would ever reflect honour on the British name; and he hoped to see the vote of impeachment followed by an act of parliament, for restoring to Cheit Sing, and the other unhappy sufferers in India, what they had been so inhumanly and illegally robbed of.

Mr. *Grenville* declared his concurrence with almost every point which had been urged by the hon. gentleman who moved the resolution. He affirmed also, that he agreed with his noble friend (lord Mulgrave) as to the sentiments which he had delivered, and endeavoured to rescue the Directors and the Board of Control from the charge of their having either misunderstood, or neglected to enforce the execution of the Act of 1773, asserting, that excepting in one letter of the Court of

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Directors sent to India, not a single trace of inattention to the Act could be found. He explained the clause of the Act of 1784, by contending, that although in the conception of that House the meaning of the Act of 1773 was clear and explicit, yet as some persons had been known to entertain a doubt, it was thought right, by an explanatory Act of 1784, to put the matter out of all manner of doubt. Upon the present occasion, he said, he could not resist an attempt to save Mr. Larkins from what he thought rather too harsh treatment, and declared, that he had ever understood that gentleman to be a man of strict honour and unimpeachable integrity, and by no means capable of wilful perjury, though he had certainly, through mere inadvertency, sworn fully, instead of swearing to the best of his knowledge, respecting Mr. Hastings's letter of the 22nd May, 1782, not having been opened since he had parted with it out of his hands. Mr. Grenville said, he must contend that the Act was strong enough to answer every purpose for which it had been framed. This letter, instead of defending, went to condemn the Governor-general's conduct. The laws having been found inefficient to guard against the increasing inroads of corruption, it was thought necessary to enforce the operation of that Act, by establishing a new code, which was intended to remove the cruel extortions and oppressions under which the poor natives of India groaned. Shall, then, the Governor-general endeavour to shelter himself under a misconception of law and aggravated injustice by extortion? His demand upon Cheit Sing was shameful and inhuman to the most criminal degree; and it was his wish to carry before the august tribunal of the House of Lords, the man who had dared to sully the lustre of the British name, and to trample on the sacred inheritance of an unoffending race of people. The rajah Cheit Sing had been called upon by Mr. Hastings for five lacks of rupees; and at the very time when the Directors were deliberating at home on what measures it would be proper to pursue with respect to that chief, the Governor-general was extorting from him a present of two lacks for his own private use.—In conclusion, Mr. Grenville observed, that when he followed up his earnest wishes to vindicate the Board of Controul from any imputation of being a party in what was called the misconstruction of the Regulation Act, he must beg leave to insist, that the new Act was, to prevent the former one from being evaded by that cunning and artifice which had been employed by Mr. Hastings; and from various letters and documents he contended, that Mr. Hastings himself could never have understood them in the manner now represented. If, in this proceeding, Mr. Hastings had exercised peculation and extortion, and had only exercised them to supply the exigencies of the public service, and had always applied them to that sole purpose, this, though not a justification of his conduct, would have been a diminution of the offence. But no such palliation as this appeared in the transaction; and though it was not absolutely proved that Mr. Hastings had not converted this money to the public service, yet there was very strong ground for something more than suspicion; and his avoiding to give any explanation of the business, though ordered to do so by the Court of Directors, made the circumstance still more suspicious and unfavourable.

Mr. *Sheridan* begged leave to say, that of all insinuations, that which might have fixed upon the minds of the committee even the shadow of a suspicion that Mr. Larkins had been guilty of corrupt and wilful perjury, was the most distant from his idea. The whole of what he meant to intimate was, that an incontrovertible fact stood forward, which, in its nature, ascertained, that Mr. Larkins had deposed upon oath, to the truth of some points, which most certainly did not fall within his own immediate knowledge.

Major *Scott*, in reply to lord Mulgrave, who had asserted that it was a shabby defence, to plead that Mr. Hastings had mistaken the law, and that it was a diabolical doctrine to advance, that the English security in India depended on our keeping the native princes in ignorance, said:—I must trespass upon the indulgence of the committee for a very short time, in order to obviate two objections that have fallen from the noble lord below me. It is not, Sir, from any conviction in my own mind, that I say Mr. Hastings mistook the law; but when great and respectable authorities in England assert it, I am desirous of bowing to their opinions; but this I contend, that the noble lord is totally unfounded in saying, that Mr. Hastings, when he received the Bill, had a different opinion of it; and this, which is the main point, I am very confident I shall be able to prove, even from those circumstances

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which the noble lord has adduced, to prove the reverse. The noble lord says, that when colonel Champion applied for permission to divide ten lacks, given by Sujah Dowlah to our victorious army, Mr. Hastings refused his consent, because it would be in breach of the new Act just then arrived; and to oppose it, would be to incur the penalty: but if the noble lord will go on a little farther, he will find that Mr. Hastings proposed, in November 1774, that the government of Bengal should do all that was in their power, namely, receive the money as a deposit, and submit it to the Court of Directors to take such steps as they thought proper, in their wisdom, to secure the money to the army. What did the Directors do? Why, they approved of the money remaining as a deposit; and after repeated representations from Bengal, they, with the sanction of the Board of Control, have given that money to the army which served in the Rohilla campaign; yet, by the noble lord's doctrine, they have all acted against law. —Now observe what Mr. Hastings did on another occasion. On the 31st Oct. 1774, a few days after the establishment of the Supreme Council, he brought to the Board two bags, one containing 147 gold mohrs, the other 327 rupees, being the nuzzars he had received since the operation of the new Act. He gave it as his opinion, that he ought to continue to take them, and to bring them to the Company's account; but submitted his opinion to the correction of the other members; and it was agreed, that this money should be paid into the treasury, and that the treasurer should receive such other sums as Mr. Hastings should hereafter pay in, under the same head. General Clavering, col. Monson, and Mr. Francis, gave it as their opinion, that to receive any presents, would be a breach of the law; but if the noble lord reads their minutes, he will clearly see that they do not apply to the minute of the Governor-general, but to that of another member, who had received and given trifling nuzzeranas, without bringing them to account. The noble lord will also see, by a public account on your table, that presents to the Governor-general, form a regular head of receipts, under the head of Durbar charges. In one year, the Company received above 2,000*l.*; in another, three; in another nine; and so on. But, according to the noble lord's construction of the Act, the most trivial of these presents was, in fact, as much a breach of the law, as the highest: and so chaste was general Clavering, that he not only applied it to money, but he would not accept a plate of mangoes, or a basket of oranges. I contend, therefore, that if the construction which the noble lord puts upon the law, is a true one, every man in England, and in India, whose duty it was to enforce the observance of that law, has mistaken it, as well as Mr. Hastings.— With regard to the second observation of the noble lord, that it was a diabolical doctrine to support, namely, that we must destroy the morals of the native princes in India, in order to govern them; I affirm that I never uttered nor conceived such a sentiment; but this I will affirm, that it was a most wise and proper measure to appoint Munny Begum, the widow of Meer Jaffier, to the guardianship of the Nabob during his minority, after the Court of Directors had ordered Mahomed Reza Cawn to be removed. The person, who from his family had pretensions to that office, was Yeteram ul Dowlah, the Nabob's uncle; but he had evidently an interest in his death, as his own son would in that event have succeeded to the Musnud; and the jealousy and want of principle in Eastern courts, are too well known to require their being mentioned. If an ambitious Mussulman had been appointed to the office, he might have instilled notions into the Nabob's mind very dangerous to our own government; for there can be no danger in stating that which all the world knows to be true, that the Mahometan government was a usurpation upon the natural and just government of Hindostan, and that our government is a usurpation upon theirs. That the natives, the greater mass of the people, are happier now than they were under their Mahometan rulers, we know; but this I contend, that the aspiring and ambitious Mussulmans, who are even sunk to downright insignificance compared with their former state, must behold us with jealousy, and something more. I contend, therefore, that it was prudent to preclude men of this description from the person of the Nabob; and the Directors saw the appointment of Munny Begum as made with a view to this consideration, and they very warmly approved of it.

Mr. *Le Mesurier* said that he, as a Director, had ever understood the construction of the Act of 1773 to be that which Mr. Hastings had put upon it, and under which he had acted,

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The question being put, the committee divided: Yeas, 165; Noes, 54.

Debate on the Report from the Committee on the Charges against Mr. Hastings.] The report was then brought up by Mr. St. John; and upon the question, that it be read a first time,

Mr. *Le Mesurier* opposed its being received, it being a matter of infinitely too much importance to be entered into at that late hour of the evening. There were a great number of gentlemen who had not as yet given their sentiments; and it would be unjust to hurry on the question with such precipitancy, as to prevent gentlemen from giving their votes according to the opinions they had formed upon the whole of the charges. For that reason he moved as an amendment, that the word 'now' be omitted, and the word 'to-morrow' be inserted.

Mr. *Dempster* seconded the motion, assigning as a reason that many gentlemen were absent, who wished to be present at the discussion of so great a question.

Mr. *Burke* answered, that those who were not present stood without excuse, if they felt any wish to be present. The proceeding had been long and arduous, and rather lingering than precipitate, and no man could complain of want of sufficient notice. Indeed, so full a House as that was, proved that the notice had been ample, and he hoped that the House would not consent to farther delay.

Mr. *Rolle* wished that every gentleman might have a full opportunity of hearing all the arguments, and of giving his vote. He meant therefore to oppose coming to a decisive question that night.

Mr. *Pitt* observed, that, in a business of such consequence as that before the House, he felt every successive stage become more and more important, and could not therefore repress his anxiety to preserve that degree of regularity in the proceeding, which should leave gentlemen at full liberty to deliver their votes, singly and exclusively, on the merits of the grand decisive question of impeachment, free from all manner of hesitation arising from any objectionable form in which that question might come forward. He therefore wished to know how the right hon. gentleman intended to proceed? For his part, having in some of the articles gone only a certain length in his assent, and by no means admitted a degree of guilt, of an extent equal to that imputed in the charges, he could not think himself justified in joining in a general vote of impeachment, which might seem to countenance the whole of each several charge. The method which it was most advisable, in his opinion, to pursue was, to refer the charges to a committee, in order to select out of them the criminal matter, and frame it into articles of impeachment, and then, on those articles, when reported to the House, to move the question of impeachment. If, on the contrary, the mode adopted was to move the impeachment immediately, he should find himself under a necessity of moving, on the report from the committee which had already sat on the charges, several amendments, confining the effects of each charge to that degree of real guilt which he thought appeared in it. He waited, therefore, to be informed which was the intention of the friends and authors of the prosecution in this respect, that he might regulate his conduct accordingly.

Mr. *Fox* observed, that when he felt the pleasure of discovering even those gentlemen whose political principles and remarks so often militated against his own, seriously adopting the same sentiments upon a great and important question which he entertained, no man was more willing to bend himself to their wishes as to the mode of best carrying those sentiments into effect. It was therefore with great concern that he felt it impossible for him to agree with the right hon. gentleman in the proposition which he had just stated: but he really could not do so without betraying, as he conceived, the business in hand, and weakening, even to the dangerous risk of losing it ultimately, the great question naturally consequent on all the discussions and elaborate investigations of the committee they had just come out of; the great question, "That Warren Hastings, esq. be impeached." That question was, he thought, the next and immediate step to be taken by the House, after agreeing (if they should agree) to the report then on the table; and they would in that case follow it up by sending word to the House of Lords, that the House of Commons had resolved to impeach Mr. Hastings, and declaring that they were preparing articles, and would present them with all convenient dispatch, reserving to themselves the constitutional right of supplying more articles, after they had gone through the whole, whether they should have occasion at all to exercise that right

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or not. Mr. Fox enlarged in support of this mode of proceeding, comparing it with the other mode proposed by the Chancellor of the Exchequer, and contending that it was the true constitutional mode, and the best to carry the views of the great majority of the House into full execution. If the House proceeded in the manner which he conceived to be the proper, and, indeed, the only proper manner of proceeding, they would, by coming immediately to the great question, afford those gentlemen who meant to urge the argument of a set-off, a full opportunity of putting their favourite reasoning to the test; they would give every gentleman an equal degree of indulgence, and the matter, as to the question of impeachment, would rest on its true merits, the sense of the majority, grounded on the votes of the committee, and then the House would decide upon the great question fairly; and, having once decided upon it, they would run no risk of losing it in any subsequent stage, by entertaining altered opinions under the influence of reasoning on the particular form and shape of different articles of the impeachment, or, what was still more to be dreaded and guarded against in a proceeding of that kind, by the influence of improper interference, to which the other mode of proceeding was particularly obnoxious. The other mode of proceeding was also liable to other objections. If the House went into a committee in order to draw the articles of impeachment before they had resolved to impeach, they would set their committee an idle, and, possibly in the end, a fruitless task; for, having ultimately to look at the question in a new light, and to decide upon the impressions of all the criticisms and sentiments of different gentlemen, the great question would prove very much weakened, and come to decision under circumstances much more unfavourable to it than at present. Perhaps there might be precedents for the mode of proceeding recommended by the right hon. gentleman. Indeed, so many were on the journals, and those so various and contradictory, that there was scarcely any mode of proceeding, however absurd and however unconstitutional, for which a precedent might not be quoted; but he much doubted whether any precedent would bear out the proposition just made. He had examined a great variety, and the nearest which he could find was that of lord Danby, but it did not exactly meet the present case. Mr. Fox recited at large the particulars of the case of lord Danby's impeachment; and, after stating them circumstantially, pointed out the different modes of proceeding which had prevailed afterwards, as well as those in times more modern, mentioning the impeachments of lord Bolingbroke, lord Orford, &c. &c. and afterwards lord Oxford and sir Robert Walpole, coming at length to the case of lord Macclesfield, where the whole had originated in a message from the Crown, upon examining the papers placed upon the table, by which the House had immediately resolved to impeach, and had sent a message to the Lords to that effect. After enlarging upon these particulars, Mr. Fox returned to his former argument, and observed, that the mode which he had taken the liberty to recommend, he was convinced, was the shortest, the best, the most likely to secure the end, and that which he could not conceive any gentleman, who meant to act fairly and sincerely in this business, or any other of the same kind which might occur in future, and who did not mean some fallacy, or by some trick to abandon it, could object to. In saying this, he begged not to be understood as designing to insinuate, that any such fallacy was intended in the present instance, much less that the right hon. gentleman was not himself as sincerely desirous of sending the matter to the House of Lords as he was. He had not the smallest doubt but that he was equally serious on the occasion; but he wished to guard against establishing a precedent which might by bad men be abused in future times. He could not therefore but express his surprise that the right hon. gentleman should wish to pursue a different mode, and the more especially as he saw no reason why the amendments at which he hinted need be at all supposed an argument against the general question. Excepting only in the charge against contracts, had the right hon. gentleman made any distinction so strong as to prevent his generally voting with the resolution moved upon each of the charges carried. If therefore he had not objected, notwithstanding the various distinctions and differences which he had taken upon several of the charges, to vote that most of them contained matter of impeachment, why could he not consent to impeach, and in framing the specific articles, take the sense of the committee upon each of his wished-for

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amendments? Mr. Fox added, that if he appeared to deliver his sentiments in some emotion upon the present occasion, he could declare that they were uttered only with a natural warmth rather arising from his consciousness of the importance of the business, and his sense of the deep degree in which the honour, the dignity, and the character of the House and of the nation, were involved, than from any spark of passion or intemperance of feeling. He had merely delivered his individual sentiments, independent of party or connexion. They might possibly not be supported; but as he really thought he could not, without betraying the cause, countenance any other mode of proceeding, so he could not lend himself to its support; and if a question were put on the mode proposed by the right hon. gentleman, he should be obliged to vote against it.

Mr. *Pitt* felt the strongest conviction that the becoming warmth of the right hon. gentleman proceeded from an unfeigned zeal for the true rights and honour of the House, as there was certainly nothing, either in the question itself, or in the manner in which it had been introduced, which could give rise to such a degree of earnestness, except a firm conviction that there was some real danger to the success of the whole proceeding, or to the essential forms and functions of that House, actually involved in it. For his own part, he had no object in view, except to bring the business to its ultimate stage, in the most unquestionable and regular manner possible. He should therefore be extremely willing to coincide in opinion with the right hon. gentleman, and to give up his own idea upon the mode to be adopted, could he, for a moment, suppose either that the right hon. gentleman's object, which was also his own, would be answered by it, or that the right hon. gentleman's objections to the mode which he had suggested at all applied to it; but he must say that he still remained unaltered in his former opinion, and he scarcely thought it possible that there could arise any difference of sentiment upon the subject. The right hon. gentleman had argued in favour of his opinion, from the peculiarity of the present case, which peculiarity he stated to be, that the question of impeachment was not to stand confined simply to a discussion of the existence and degree of guilt; but that a set-off was to be made of merits on the part of Mr. Hastings, to counterbalance whatever faults he might have committed, the consequence of which would prove that the House must have the complete question to determine, not only on the guilt of Mr. Hastings, and the amount of it, but also on his services and deserts, and how the balance stood between both. From hence the right hon. gentleman had drawn an inference, that the proper method was first to come to a general resolution to impeach, and then on that resolution the question of the set-off services ought to be debated, and after the resolution to impeach was carried, to appoint a committee to draw up the precise articles on which that House should rest their charge, and which they were prepared to substantiate by proof at the bar of the House of Lords. But, in his opinion, this complexion of the case, instead of supporting the propriety of such a mode of proceeding, did absolutely render a different one essentially necessary. For how was it possible to form an estimate or comparison between the offences and merits of Mr. Hastings, except by first ascertaining the extent of each? The extent of his transgressions then could only be set forth in the final articles of impeachment; for it was pretty well understood, that the whole of the matter contained in the present articles of charge, even on those which the committee had voted, was not criminal nor even authentic, and that a great part of them consisted of facts incapable of proof, or which, if proved, could not be imputed to Mr. Hastings as delinquencies. What, then, was the House to do, in order to bring the question of comparison between his crimes and his deserts fairly before them, except to separate and analize the charges, so as to distinguish the real guilt from that which was unfounded, and then, having a clear view of a certain degree of ascertained guilt, determine how far that guilt would weigh against whatever degree of merit might be alleged and proved in his favour? For his part, he was at present ready to confess, that whatever might have been his opinion of the origin of the proceeding, he was so fully satisfied, that the House at least could not, after what had passed, and after what it was in possession of, with any sort of propriety, take any notice of the merits of Mr. Hastings, because nothing could possibly occur that should now induce them to reject the vote of impeachment, provided

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that it were done in a manner consistent with what they thought substantial justice; but still he conceived that the House was bound to have the friends of an accused person open to any method which they might think proper for his defence; and, if they thought the plea of services likely to answer their purpose, to put them into a situation of availing themselves of that plea in the most ample manner. Thus, as far as respected any supposed peculiarity in the case of Mr. Hastings, from the intention of arguing by way of set-off in his favour, so far he thought it was clear that no reason could be assigned from them for the method proposed by the right hon. gentleman. With regard to the consideration, how far the proceeding would in itself be affected by the difference of the two modes suggested; in this respect they were both perfectly indifferent, because neither would tend to retard or expedite the business more than the other. In neither case could the House of Lords take up the business until the articles were framed; and, in point of time, no delay could arise from the question of impeachment being put subsequently, any more than prior to the framing of the articles. But the right hon. gentleman was apprehensive of a precedent which might be attended with bad consequences in future. He should shortly come to enumerate a series of precedents which had already been established, but would first observe upon the principle on which the right hon. gentleman's opinion was founded. He flattered himself that the House and the nation would give him credit for as warm a zeal for, and as diligent a care of, the powers of that House, that so they should not suffer by any direct act, nor be undermined by any indiscreet management, as any gentleman whatsoever could lay claim to. But how could any danger arise in the present instance? In proceedings of this nature the House ought to govern itself by the circumstances of the particular case; and some existed, which certainly might require the most decisive dispatch, and in which it would prove dangerous to delay the great and binding resolution for the impeachment a single moment. If, for example, a minister had been guilty of any act directly repugnant to the Constitution, to the rights of Parliament, or to the interests of the State confided to his care, in such a case it would be highly expedient to come to an immediate vote of impeachment before they allowed time for drawing up the articles; even though by so doing they should sacrifice the proper and regular forms of proceeding, and perhaps lose something by that sacrifice. For when such a man found himself in such circumstances, it might be possible for him, seeing no resource for safety but a bold and desperate conduct, to avail himself of the confidence of the Crown, and advise a prorogation or dissolution of Parliament; or if he were a person possessed of great popular influence, he might, while that House were hesitating upon the form of their charge, fly into outrages of the most dangerous tendency, and create animosities and violences through the kingdom, which a too long protracted impeachment, although it might at first have prevented, would prove perhaps in the end unable to compose. It so happened, that in every such instance, where the party accused was possessed of a power and influence so great as to render a delay in proceeding dangerous, the offences of which he was guilty must be in themselves of so great, so public, and so very palpable a nature, that no doubt could possibly arise as to his criminality; and there could therefore be no injustice in that summary and decisive mode of proceeding. But the same course ought by no means to be followed in cases so widely different as the present, when the accusation consisted of so very diffuse and complex a mass, of many charges which had not been substantiated, and of many facts which could not in any degree be considered as criminal, though he was ready to declare that it also contained much of authentic, and most heavy delinquency. In such a case, there could be no danger in following the fair, obvious, and established method of first selecting and ascertaining the guilt, and then proceeding to the impeachment. Mr. Pitt now stated a number of precedents of the proceedings of the House in like cases. He mentioned the impeachment of the earl of Arlington, Secretary of State, in the reign of Charles 1, in which the House having first received the substance of charge against him, (part of which he desired the House particularly to observe was high treason, and of course made a much stronger ground of argument) appointed a committee to examine and report upon it what matter of impeachment it contained. [Here Mr. Fox said across the table, that this was a committee of a

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similar nature to that which had just been sitting.] Mr. Pitt replied, that it was by no means; for the articles which were reported from the committee were the very articles which were afterwards sent up to the Lords; and he believed the articles which were to be reported from the committee on the present occasion, composed as they were of such abundance of unnecessary and irrelevant matter, were not of a nature that the right hon. gentleman who had framed them, would himself wish to have sent up to the House in their present form; so that the intention of the House in the institution of the two committees was distinct and different. In the present, the duty of the committee was only to examine whether there was impeachable matter; in the former, to select and report what the impeachable matter was. He instanced also the impeachment of another person in the same reign, for a seditious and treasonable publication in which a correspondent course had been followed, and dwelt for some time on the proceedings against the earl of Portland, and the lords Somers, Oxford, and Halifax, for the Partition Treaty in the reign of queen Anne, for the purpose of proving that the form then adopted was similar to that which he proposed. But the prosecution of lord Danby, although used as an example by the right hon. gentleman, was, he contended, a case directly in point in favour of his proposal. Upon the whole, he was of opinion, that as it had evidently been the object of the friends of Mr. Hastings to attempt to balance his virtues against his vices, the opportunity of doing which would be lost by determining on the impeachment, before the full extent of his guilt was ascertained in precise terms by the regular articles of impeachment; as no actual inconvenience could arise from it on the present occasion; and as no new precedent would be set by it, it would be highly proper for the House, previous to their passing a vote of impeachment, to have before them the identical articles of accusation, describing and setting forth the degree and quality of the several offences which they thought themselves capable of substantiating in proof at the bar of the other House, that so they might be able to determine how far those offences were sufficient to outweigh the merits which might be opposed to them, or how far they might justify the departure from the established forms of jurisprudence in this country, to which in this instance they were to be called upon to give their sanction.

Mr. *Frederick Montague* observed, that the Journals afforded so multifarious a farrago of contradictory precedents, that it was difficult indeed to derive from them a judgment of what was the best mode of proceeding. He instanced the case of lord Strafford, and a variety of others, and argued upon the different modes which had at that time prevailed, and concluded with observing, that, upon the present occasion, the most constitutional form of impeachment was that which merited adoption.

Mr. *Burke* declared, that he never had risen under a greater pressure of embarrassment and doubt, than at the moment when a member so conversant in all the forms of proceeding in the House as the right hon. gentleman who spoke last, was rather at a loss to decide, and when consequently, it became impossible to him, having just witnessed the utmost splendour of abilities displayed on both sides, in support of opposite positions, to pitch upon that which was the properest mode of proceeding to follow. But, though nothing could give him so much concern as to differ from his right hon. friend (Mr. Fox) near him—and Heaven forbid that it should prove an omen of future frequent variances in opinion, (in which case he well knew that the great superiority of his right hon. friend's abilities must bear down and extinguish his talents entirely)—yet as it appeared to him, that unanimity was most likely to continue, by adopting the mode of proceeding recommended by the right hon. gentleman opposite to him, he should advise against his own judgment, (for if he gave any preference, it must be to the constitutional mode recommended by his right hon. friend near him) that the mode so recommended, be the mode adopted and pursued:—a mode which, however, appeared to him to be as likely to answer the end of dispatch as any other mode of proceeding. Unanimity was now more essential than ever to the great purposes of conducting so important and solemn a proceeding to a proper conclusion, and he had observed, that in proportion as it had taken up time and become necessarily farther and farther discussed, the more the whole business of the inquiry had grown upon the public, and the more it had generated unanimity. Upon that principle,

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therefore, and that alone, he would recommend the mode proposed by the right hon. gentleman opposite to him. The effects of the inquiry with a view to impeachment had been glorious both in that House and without doors. Without doors men's minds had been changed, rooted prejudice had been eradicated, conviction had followed, and all the world confessed that the House of Commons were engaged in a grave and important proceeding, essential to the establishment of the national character for justice and equity. Within doors all the various modes and styles of eloquence had been called forth and displayed on both sides, to the admiration of the House, and to its infinite honour and advantage. Looking round him and seeing who were near him, he scarcely dared venture to speak farther upon a subject, in which recent experience had proved, that he found many masters much younger than himself: but, the topic operated as an excitement to the display of all the finer powers of the human understanding. It has gone much farther, softening almost into a common bond of union the hitherto-obdurate hearts of violently contending politicians; sheathing the sword of embattled party, and lowering its hostile front; whilst, as it occasioned both eloquence and argument to spread themselves abroad in every quarter, the House of Commons, in which they flourished, resembled the once beautiful aspect of the Rohilla country, and presented to the admiring eye a richly cultivated garden, adorned with fruits and flowers, and forming as luscious a scene as that which the late Governor-general of Bengal delighted to exterminate.—Mr. Burke now took notice of what had that day fallen from major Scott, and declared, that though he could not say that the hon. gentleman had performed much public service by his conduct in the progress of the business, he had done himself everlasting credit by his active zeal for his principal, and his steady and earnest perseverance in his support. There had fallen from him, however, on that day, some extraordinary assertions. He had declared, that no man but himself had the direction of Mr. Hastings or his fortune, and that he alone had expended 7000*l.* in procuring and conveying intelligence to the public. That a considerable portion of it had been paid to the Morning Herald, and that the paper had made but an ill return was a material assertion, for, what must they think of the fortune of that man, who, out of his private means, could afford to lay out 7000*l.* in buying up the public prints? The power of contaminating and directing the channels of public intelligence was a consideration well worth the attention of that House. The account of the expenditure of 7000*l.* for the purposes of obtaining secret information, and entering into amicable leagues with editors of newspapers, did not at all agree with the description which the major had given of the poverty of his oriental friend.

It was at last agreed that the Report should be taken into further consideration to-morrow.

April 3. The order of the day being read for taking into further consideration the report of the Resolutions on the charges against Warren Hastings, esq.

Major *Scott* observed, that he came to the House with an intention of opposing the resolutions being read a second time; but as a new mode of proceeding had been adopted, which would give him an opportunity of submitting what he had to offer to the consideration of the House, prior to the vote of impeachment, he should reserve himself until that time.

Mr. *Burke* said, that the friends of Mr. Hastings would, undoubtedly, do right to take their own time for urging such arguments, as, in their opinion, were most likely to serve their cause.

Mr. *Sheridan* thought the hon. major could not have a better opportunity of arguing the merits of Mr. Hastings, by way of set-off, than the present. If the merits of Mr. Hastings were to be measured against his criminality, the fairest, and indeed the only mode to enable the House to do so, at the proper stage of the proceeding, would be for the hon. major then to go into a statement of those arguments, on the merits, which he meant to use. In that case, it might be found necessary for the gentlemen on the side of the House where he sat, and all those who had voted for the charges, to call for papers in order to repel the weight of those arguments which the hon. major might urge, or to do away the impression which they, or the evidence of any witnesses might make upon the minds of the House. This could only be done by the hon. gentleman's entering into argument in the present moment, because if he did so at any subsequent period, it

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would have an unfair effect on the charges, and the House would not be able to give the mass of criminality, already established, its due weight. In order to exemplify this, Mr. Sheridan put a variety of hypothetical cases, to show the manner in which not stating the argument on the merits of Mr. Hastings as a set-off then, might possibly operate as a disadvantage against the supporters of the charge, who were to measure the merits against the guilt. Different gentlemen had settled in their own minds different scales of the criminality of Mr. Hastings, by which each individual would naturally measure guilt and its merits, and, balancing the one against the other, decide accordingly. Suppose, therefore, the committee to whom the charges were to go to be put into proper shape and form, as articles of impeachment, should reduce the charges to two, was it to be imagined that they would admit an unproved and alleged *quantum* of merit against a proved and a substantiated guilt contained in two charges? He was surprised to find that the right hon. gentleman opposite did not rise and urge the arguments, which he had declared he meant to bring forward in support of those differences and distinctions concerning which he had talked as being entertained by himself respecting some of the charges, and in particular that relative to the contracts. He was at a loss to imagine, how the right hon. gentleman could possibly sit and hear the questions put upon the resolution relative to those charges, the motion upon which, specified distinctly and by name, among other grounds of criminality, Mr. Auriol's and Mr. Belli's contracts, to both of which the right hon. gentleman had expressly objected. With regard to the charge relative to Benares, the right hon. gentleman had, in the course of his argument, stated some objections, though he had made no motion. This, therefore, appeared to him the fit opportunity for discussing those objections.

Mr. *Pitt* said, that no person was better entitled than the hon. gentleman to adhere pertinaciously to his own opinions, because no man was capable of forming them more judiciously, when he gave himself time to consider them. It was the first time he ever recollected to have heard any member attempt to dictate to those from whom he expected opposition, to what stage of the proceeding that opposition should be applied. It was surely left open to any gentleman to choose that particular period in which he thought he could, with the greatest advantage, offer his sentiments to the House; nor did he know by what title any person could arrogate to himself the prerogative which the hon. gentleman had attempted to exercise of choosing for other members the time in which it was proper for them to come forward with their opinions. For his own part, although he coincided with the hon. gentleman who brought forward the prosecution, on the general question of the impeachment, yet on the particular articles of it, he should, in all probability, entertain some difference of opinion. This would of course lead him to submit some propositions to the House, with the view of narrowing the subject matter of impeachment, and confining it to such objects as appeared to him of magnitude and probability sufficient to warrant such a proceeding. But those propositions he should certainly submit in that stage of the business, which he thought best adapted to them, and in which he should be able to do it in a manner best calculated for the ease of the House, and the satisfaction of his own mind. Yet he was somewhat surprised, that the hon. gentleman, zealous as he certainly was in the cause, and happy to bring it to a speedy conclusion, should suggest a mode of proceeding likely to be productive of great delay and difficulty—the examination of witnesses to substantiate whatever merit might be alleged in favour of Mr. Hastings, and have its weight as a set-off. Nor could he reconcile it to such zeal and anxiety, that the hon. gentleman should be extremely solicitous to procure an opposition to any one individual stage of the business. And it appeared to him still more extraordinary to hear the hon. gentleman complain of the delay, after the acquiescence which he had himself given. He had heard nothing which could alter the opinion under which he and the House had separated last night; and he declared, that having understood, in common with the House, that no debate was to be brought on of a nature similar to that which the hon. gentleman wished to set on foot, he should, were such a proceeding to be adopted, feel himself precluded from taking any part in it.

Mr. *Sheridan* assured the right hon. gentleman, that he by no means designed

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to arrogate to himself a prerogative which did not belong to him, much less to assume the right of dictating to any of the members, when they should urge such objections as they might mean to offer. He had, in fairness, risen to apprise the hon. major, that if he or any other friend of Mr. Hastings meant to argue the merits of Mr. Hastings by way of set-off against his criminality, they could not take a more favourable opportunity than the present. He had assigned his reasons for entertaining that opinion, and that opinion he still continued most firmly to embrace. The remark, that he had tacitly conceded to the propositions of the right hon. gentleman the preceding evening, was certainly well founded; but he had not either recalled or violated that concession; for what was it, but an acquiescence, instead of insisting on putting the question, "That Mr. Hastings be impeached," as soon as the committee had agreed to the resolutions contained in the report, that the resolutions should be referred to a committee, to be by them put into proper shape as articles of impeachment. Had he in the smallest degree resisted that in his former argument? He certainly had not, but had merely argued upon the resolutions then about to be read a second time; and so far from that being contrary to any agreement or general understanding of the House, the reverse was the fact; for it had been generally understood, that the debate of that day was to have been put upon the resolutions, and a quarter of an hour before he rose, he had heard the hon. major himself observe, that he meant that day to have gone into much argument upon the subject.

Mr. *Burke* said, that he felt it necessary to protest, and that in the most solemn manner, against the entertaining, for a single moment, such an idea as a set-off, against a pointed, positive, and direct personal criminal charge. A set-off could only be urged, where general criminality was imputed or suspected, against which it might be fair to plead general merits; but where a specific charge of criminality had been exhibited, it became an act of duty to put the party accused upon his trial, without regard to any merits which he might possess, in any part of his conduct. In the present case, it would be idle to talk of admitting the plea of any merits in Mr. Hastings, as a set-off; and, indeed, if the general maxim to which he had just adverted, was not of itself sufficiently strong, two points were urged by Mr. Hastings himself in his defence at the bar, which rendered any attempts to plead his merits as a set-off against his crimes impossible. These were, in the first place, Mr. Hastings's complaint against his accuser, for tardiness, in not bringing him to his trial with sufficient dispatch. Secondly, Mr. Hastings's declared disdain of any benefit which might result from having his general merits pleaded, either as a palliative, or a justification of his conduct. As to the person who stood forward as the accuser being charged with tardiness, he was ready to plead guilty to the allegation. That person ever had been, and ever would be slow to criminate; but when impelled by public duty to take up that character, he would always endeavour to remain steady and temperate. Mr. Burke alluded, in the course of his speech, to the argument of Mr. Hardinge on the doctrine of a set-off, delivered at an early period of the proceeding; and a matter better argued, or more clearly urged, he declared, he had never heard. That hon. and learned gentleman had mentioned the case of lord Clive, where the question had been, whether certain territorial possessions obtained by lord Clive belonged to the East India Company? That matter was inquired into, and it was decided, that the lands were their property. The next question would have been, whether lord Clive had any right to hold in his hands, territories belonging to the East India Company? In that stage of the business was it declared, that on account of lord Clive's general merits, he should be allowed to continue in possession. Mr. Burke pointed out the difference between a case like this, and a case where serious and specific charges of criminality had been formally brought forward, investigated and substantiated, and added, that in the case of Mr. Hastings, after what that gentleman had himself said at the bar, it was impossible to think of admitting such a set-off, as could in no criminal prosecution be admitted, without rendering all future criminal prosecutions nugatory and useless.

Major *Scott* could positively assure the right hon. gentleman, that he had no idea, either now or at any other time, to plead Mr. Hastings's good conduct as a set-off against delinquencies. He had uniformly opposed all the charges, from a conscientious belief that Mr. Hastings dis-

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covered extraordinary merit in those very acts which were voted as grounds for impeachment; and, therefore, whenever he had stated the merits of Mr. Hastings, or whenever he might state them hereafter, it neither was nor could be upon the most distant idea of setting them off against supposed delinquencies. An hon. gentleman had said, very truly, that it was his intention to oppose the report in this stage, but he would not presume to set up his own opinion contrary to the general wish or sense of the House; and it certainly was the sense of the House to postpone the debate until after the recess. The Major said, that as he understood it, the resolutions were to be read merely *pro formâ*, that the charges were then to be sent to a committee, that articles were to be presented and reported, and upon the report of those articles, he presumed, that the debate might come on with more propriety than at the present moment, since, in fact, the report was a part of the present proceeding. But he was perfectly free to say, that if the articles should be received in the report, it was not his intention, by any means, to oppose the final vote of impeachment. In saying this, he hoped that it would not be irregular to declare, that he spoke the sentiments of Mr. Hastings. If the articles should be reported, he even wished the impeachment to follow; and if the House would indulge him, he would read as a part of his speech, Mr. Hastings's sentiments, in his own words. They were as follow:—

"Though it might be deemed presumption in me to declare any wish or expectation concerning the mode in which the House of Commons may, in its wisdom or justice, determine to proceed in the prosecution of the inquiry into my conduct, now depending before them; yet as it has been reported, that many gentlemen, members of that honourable assembly, who have not chosen to give their constant attendance on the committee holden on this business, have expressed their determination of opposing the general question of impeachment, when it shall be brought before the collective body of this House; I hope I may, without irregularity, or the imputation of disrespect, intimate my sense of such a determination, both as it may respect that question, and the claim which I conceive I possess to attendance on the question upon the report, which in the due order of business will precede it.—I presume that in the present examination of my public conduct, there are two leading, and, as it appears to me, exclusive objects, of equal and reciprocal obligation; namely, that justice may be done to the nation in the redress or punishment of wrongs, which it may be eventually proved that it has sustained by my acts; and that justice may be done to an individual, who may be eventually proved to have been wronged by unfounded accusations, and who even thinks that he has a claim to the applause of his country, for those very acts which have been drawn into crimination against him.—If it shall be resolved by the honourable House of Commons to agree to the report of the committee, that is to say, if it shall be resolved that there is ground for impeaching me for high crimes and misdemeanors, on the charges on which the committee have already passed that decision; I presume, that the resolution for the impeachment ought to follow of course, as the only means which can satisfy the justice of the nation in the supposition of my guilt, or clear my character in the supposition of my innocence. With regard to the first of these conclusions I have no claim: but for the last, I may, in common with the meanest of the subjects of this realm, assert my right to the benefit and protection of its laws; and I trust, that the honourable House of Commons, which has ever been considered as the guardian and protector of the laws, will not suffer my name to be branded with the foulest and blackest imputations upon their records without allowing me at the same time the only legal means of effacing them, by transferring them for trial to the House of Peers in the form of an impeachment.—To this opinion I humbly beg leave to add my request, and it is the only request or application which I have hitherto permitted myself to make to any of the individual members of the House on the process of this business, that if it shall be resolved on the report, that there is ground to charge me with high crimes and misdemeanors, they will afford me the benefit of their votes, though united with those of my prosecutors, that I may be brought to legal trial for the same.

"WARREN HASTINGS."

Mr. *Fox* said, that after the letter which the hon. major had read, and after his own declaration as to the point at which he meant to aim, the preventing the resolutions from standing on the Journals, it

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would prove extremely unfair if he were not to warn the hon. major that the fit opportunity for him to rise, with any hope of success, was at that moment, since, if he let so favourable an occasion slip, the very circumstance which he wished to avoid must happen: the resolutions must stand upon the Journals, where the agreeing to read them a second time would inevitably place them. Mr. Fox added, that he differed from his hon. friend as to the right hon. gentleman opposite. Most certainly there would be a stage of the business when that right hon. gentleman might with as much propriety as at present, if not with more, and with full as much advantage, argue his differences of opinion relative to the charge about the contracts and the charge relative to Benares. With regard to the agreement to send the resolutions to a committee, and not to go immediately to the question of impeachment, he at least, he supposed, might be presumed to consider himself as one who had not acceded to it. Indeed so far from it, that whether it might be called obstinacy, or any thing else, he at that moment felt as decidedly as ever, in favour of coming to an immediate question of impeachment, as the only true constitutional mode of proceeding; and sure he was, that no other mode, near so safe, could be adopted, and that to adopt any other, was to be guilty of a breach of the rules, and a violation of the old established forms of proceeding in that House. In respect to there having been any agreement, not to debate the resolutions, the very reverse was the fact. It had indeed been said the preceding night, that if there was not likely to be any great difference of opinion upon the resolutions, then it would be right to read them directly a second time; but when the hon. major, who spoke last, declared that he should enter into an argument upon them much at length, it was determined to adjourn the consideration of them to this day for the express purpose of debating them. If, therefore, the hon. major did not seize the opportunity, he did not act up to a very natural and fair sentiment expressed by Mr. Hastings in his letter just read, and which was the precise sentiment which the hon. major had urged the preceding evening, as his reason for wishing to argue the resolutions.

Mr. *Dundas* observed, that at no period whatever, since he first enjoyed the honour of a seat in the House, did he feel himself more embarrassed than during the space of the last hour, when, without any question for their arguments, gentlemen were inclined to continue a debate, more likely to create difference of opinion than that unanimity which they all seemed so desirous of preserving. When the right hon. gentleman opposite to him and his right hon. friend, who was absent, had so highly distinguished themselves the preceding night by their excellent and very able speeches, he was rather more inclined to the opinion of the right hon. gentleman opposite to him, than to that of his right hon. friend; but, on consulting the Journals, and searching for precedents, he was happy to find, that there were so many, and those so very different, that scarcely any one mode of conducting the impeachment appeared, which the House might have chosen to pursue, or which it might not with propriety have adopted. Observing the matter to stand thus, he had felt no sort of difficulty in giving way to his right hon. friend when the object was to go up to the House of Lords with a strong hand; and therefore he could not but regret that the right hon. gentleman should, contrary to his usual custom, have shown so much ill-timed pertinacity, as to rise up still rooted in his old opinion. On the preceding evening, Mr. Dundas said, he thought it was becoming in the right hon. gentleman to throw out those arguments which he had so ably urged in favour of an immediate question of impeachment; it was incumbent upon him in a manner to purge himself of the ideas which he then entertained; but he saw no reason whatever for his still adhering with a pertinacity, or rather *pervivacity*, to an argument which could not lead to the attainment of any good whatever. With as little reason had other gentlemen pressed his right hon. friend to come that evening to a discussion of his differences of opinion respecting the charge about the contracts, and the charge relative to Benares. There was a line of conduct perfectly becoming for his right hon. friend to act upon, during his present doubts in regard to the charges he had mentioned, and which under the same circumstances he should be proud to adopt; but did gentlemen think it wise to press his right hon. friend to give his opinion at the present period? Surely, a moment's consideration would teach them that in the course of a fortnight, supposing his right hon. friend yet to retain his opi-

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nion, reasons might arise to justify his changing it; or taking it the other way, it was imprudent on a sudden to call for decision, where no decision would do any service, and when, in all likelihood, if his right hon. friend voted against the particular resolution in question, he would doubtless meet with some support.

Mr. *Burke*, adverting to what Major Scott had said concerning the 7000*l.* belonging to Mr. Hastings, and expended by the former, declared, that he could not answer for newspaper accounts; from whence in all probability the hon. gentleman had drawn his information; but he had (he could assure the hon. gentleman) only said, that if the editor of a morning paper had taken Mr. Hastings's money, and returned him ill usage in exchange, he had served him as Mr. Hastings served Cheyt Sing, accepted his present, and instantly commenced his persecutor. With regard to the 7000*l.*, he had spoken of it exactly as the hon. gentleman had now described it, as a sum expended in expresses to convey intelligence to India.

The following Resolutions were now read, and agreed to.

Resolved, "That this committee having considered the third article of charge of high crimes and misdemeanors against Warren Hastings, esq. late Governor-general of Bengal, and examined evidence thereupon, is of opinion, that there is ground for impeaching the said Warren Hastings, esq. of high crimes and misdemeanors upon the matter of the said third article.

"That this committee having considered the fourth article of the said charge, and examined evidence thereupon, is of opinion, that there is ground for impeaching the said Warren Hastings, esq., &c.

"That this committee having considered the fifth article of the said charge, and examined evidence thereupon, is of opinion that there is ground for impeaching the said Warren Hastings, esq. &c.

"That this committee having considered the 7th, 10th, 11th, and 12th articles of the said charge, and examined evidence thereupon, is of opinion, that there is ground for impeaching the said Warren Hastings, esq. of high crimes and misdemeanors upon the matter of the said articles, so far as the same relate to the conduct of the said Warren Hastings respecting the contract for bullocks in September, 1779, and for opium in May, 1781, and respecting the allowances paid to Sir Eyre Coote, and charged on the Vizier of Oude, and so far as the said articles respect the agency in 1777, and the contract in 1779, for victualling the garrison of Fort William, granted to John Belli, esq. and the agency for the supply of rice, granted to James Peter Auriol, esq. in 1780.

"That this committee having considered the twenty-second article of the said charge, and examined evidence thereupon, is of opinion, that there is ground for impeaching the said Warren Hastings, esq. &c.

"That this committee having considered the eighth article of charge of high crimes and misdemeanors against Warren Hastings, esq. late Governor-general of Bengal, and examined evidence thereupon, is of opinion, that there is ground for impeaching the said Warren Hastings, esq. &c."

Mr. Burke then moved, That a committee be appointed to prepare articles of impeachment on the articles of charges, &c. He afterwards moved, that the committee consist of the following gentlemen: Edmund Burke, C. J. Fox, R. B. Sheridan, Sir James Erskine, Tho. Pelham, W. Windham, hon. St. Andrew, St. John, John Anstruther, Wm. Adam, M. A. Taylor, Welbore Ellis, Fred. Montagu, sir Grey Cooper, Philip Francis, sir Gilbert Elliot, Dudley Long, Viscount Maitland, G. A. North, General Burgoyne, Charles Grey. It was moved in the usual forms, that the committee be invested with the customary powers of calling for papers and witnesses, sitting where they pleased, &c. &c.; and it was agreed on all hands, that it must necessarily be a secret committee. A division took place upon the nomination of Mr. Francis.—Yeas 96; Noes 44.

Debate in the Commons on the Consolidation Bill—And on the Treaty of Commerce with France.] April 4. The Consolidation Bill was read a third time. On the motion, "That the Bill do pass,"

Mr. *Joliffe* observed, that his anxiety to understand this subject as fully as possible, had prevented his troubling the House at an earlier period; and resolving that his conduct should be entirely influenced by the opinion which he might form, he had waited, expecting to have heard from the minister some reasons to induce him to support the proposition of

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a commercial treaty with France. But with all his attention he had not been able to discover the promise of even one single permanent benefit which should, in consequence, alight upon this country. Mere declamation on the advantages to accrue from the extension of commerce and the encouragement of manufacture, was all which either had been, or could be offered: he therefore felt himself compelled to oppose the farther progress of a measure which, he was confident, must produce the overthrow of the empire of Great Britain.

In considering this subject there were three questions; first, Is there any treaty possible for this country beneficially to enter into with France? May not Great Britain be so circumstanced with that kingdom and the other powers of Europe, as to render it not only dangerous, but actually ruinous, to have any intimate intercourse? Preposterous as some people might hold such language, if fully considered, it was not void of argument and reason in support of it. The second point was, supposing some treaty might be confirmed, is this of such a nature? Is there that reciprocal advantage which we have a right to demand? And the third is, Whether the Treaty comprehends all the objects which this country has a right to expect it should? and are not some great and momentous articles totally omitted? In considering the first point, it is necessary to view with exactness the situation in which France stands, not only with Great Britain, but with all the world; and also the situation in which Great Britain is with all the world as well as France. France, a great commercial and maritime kingdom, the hitherto invariable and inveterate enemy of Great Britain, always her rival, as well in commerce as in power, at the end of a war which she commenced in so treacherous a manner as must brand her with the mark of perfidy to the latest posterity, solicits a cessation of ill-will, that mutual animosities may be laid aside, and that friendly intercourse may succeed; that as they are neighbours, so in future they may be friends; and that as Great Britain has long rendered her much service in the purchase of her wines, so France, sensible of this obligation, in return is now desirous to admit the manufactures of this country into her own. Reduced by war, she now desires to cultivate the benefits arising from peace; and indeed such a request is not very unlike the language of the Greeks, when they left their horse before the walls of Troy; they professed themselves tired of war, and anxious to give some token of the respect which they bore to the bravery of their enemies; but all know the consequences which attended the credulity of the latter: beware, that in this treaty is not involved that which may overpower and destroy you.

Mr. Joliffe then proceeded to observe, that the uniform and invariable disposition of France had been to acquire dominion, and to reduce, to lower, and probably to gain the actual possession of this country; that as this had ever been, under all administrations, at all periods, her invariable aim, so there was now more reason than ever, from her increased and our reduced strength, to suppose her ambition by no means diminished. Examine well, whether this Treaty does not more readily lead to that end than any other which can be devised. It has been truly and repeatedly affirmed, that the strength of this country consists in her navy, and that her wealth depends on the increase and prosperity of her commerce. Observe, whether this Treaty does not tend to diminish her navy and annihilate her commerce; and, he desired to ask, what is to render her respectable in Europe, and thereby to maintain her commerce, but her inclination as well as her ability to check the ambition and resist the power of France? By acceding to this Treaty it must be admitted, that the policy of this country is changed, not only with respect to France, but to every other power on the face of the globe; for, instead of resisting her former inveterate enemy and checking her rival, her policy must in future be to aggrandize this new friend, to render her rich and powerful; because, if there be any argument in the language of the minister, that our trade is to depend on France, the more opulent and great, the more powerful and flourishing France is, the more her riches increase, the more able will she be to patronize our manufactures and to encourage our commerce. Instead of endeavouring to depress, we must strive to exalt her, because she is to be the power to whom in future we are to look for the employment of our manufacturers and the extension of our commerce. Mr. Joliffe said, he had some little time past been in another House, where this Treaty was

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much discussed; and indeed he was greatly surprised to hear the manner in which some persons of high respectability talked of this kingdom: the persons who in that place argued in favour of the Treaty, spoke of this kingdom as having totally lost her consequence and importance as a warlike power in the scale of Europe; they said, "You must take care of your manufactures, you must look to your looms; commerce must be your object, ambition must no longer be your pursuit; will you set yourselves up as the standard to which every dissatisfied or every ambitious power shall resort? No; you must lay aside your jealousy, you must suppose the political system of Europe changed, and that as you decrease your strength, France will diminish her ambition." Very different, he said, were his ideas, and he was infinitely concerned to find so opulent and so powerful a part of the kingdom so degraded in their notions, and so lowered in their opinions of the consequence and importance of their country. He conceived, that to increase the commerce of the kingdom you must maintain a powerful navy, that without it your trade would cease, and your looms stand still. As to jealousy, he should venture to contend, that a watchful attention to that power from whom alone we have any thing to dread, was so far from blameable, that it was the primary duty which a minister owed to his country; and that although commerce and manufactures were objects by no means to be neglected, yet security was the first point, and independence the surest alliance: instead of adopting this system, and pursuing the path in which our ancestors had invariably trodden; instead of being courted by all Europe, as the defender of the weak and the avenger of the oppressed, we shall become the augmenter of the powerful, and the slave of the mighty; we shall throw ourselves into the bosom of France, and in future be dependent on her bounty. What must be the consequence of this? The other Powers of the world having lost the anchor in which they trusted, the staff on which they leaned having bent and given way, they must follow the example; they must court France to avert her vengeance, as they will be deprived of the means to defy or resist her; they must trade with France to gain her friendship, because yours will be inevitably lost. Consider, he said, whether this must not prove the consequence, and whether the French trade, even if it can be kept, is equal to that of every other nation on the face of the globe. For if you cannot be their friend, they will not be yours; and if you become the dependant on France, the rest of the world must leave you, because you will have deserted them. There is not a Power on earth to which France may not prove hostile; and there is no impediment to that hostility when yours is removed; the alternative therefore is, that they must submit to oppression or purchase favour, and the favour of France can only be obtained by the transfer of their trade from you to her. Will Russia, will Austria, will any part of Italy, will the United States, will Spain, will even Portugal, put you in competition with France, when you have annihilated your own consequence? If it should be their inclination, they will not dare to carry it into effect. Every source of commerce will be dried up, except that with France. Observe, then, how you stand at the end of the Treaty, supposing it to last to the limited period; you become the absolute dependant on France for every avenue of trade; and trust to her bounty, whether she will not shut her ports against you, for the encouragement of her own manufactures, and the protection of the industry of her own people. This was the plain consequence, the undoubted truth, which needed neither oratory to display nor argument to enforce.

The second question is, Supposing some treaty may possibly be beneficial, is this of such a nature, and are the advantages reciprocal? The foundation of this Treaty is, that the wines of France shall be admitted into this kingdom on lowered duties, and that she shall, in other articles, be treated as the most favoured nation. Wine is an article which you neither have nor ever can have, to supply France with; and therefore, let us examine, in the first instance, what return France makes for this benefit which confessedly is given to her. None is to be found. It might have been supposed, that in return for this, France should contract, that as you cannot manufacture wine, they would not manufacture woollens or cottons; that as you trade with her for an article which she has in abundance and can export no where but to you, so you should expect her to allow you exclusively the power of supplying her with those articles which you manufacture; but the fact is directly

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the contrary, because she evidently presumes that she shall manufacture both cottons and woollens; for the 7th article of the tariff declares, that she may import them here on the same duty which ours pay there, so that she may not only supersede your market in her own country, and in every other, but from her low price of labour may rival you at home. This then is not to be disputed, that as for the articles of wines and brandy, France has the entire advantage. But it has been said, that Great Britain may import beer into France. It is not easy to suppose that any man can be so sanguine as to imagine that the beer of England will be as universally drunk in France as the wine of France is in England; but, if it could be so, it may he asked, is there any physical impossibility of making beer in France, as good even as we brew in England? And if there is not, there is no reciprocity in those articles, and there is no pretence to boast of the equal advantages gained by each country. With respect to the other various articles of commerce, it is on all hands admitted, that whatever arguments were applicable against the Irish propositions, tally in a much greater degree with respect to France; but, it is said, that those who promote this Treaty are the very persons who introduced the Irish propositions, and those who opposed the Irish propositions are satisfied of this error; for, all manufacturers are silent on the subject. That silence arises from two causes; and first, they do not understand this very wide and comprehensive subject, as they did the other nearer and more contracted object; they do not consider that in this is involved, not only the greatest commercial but the greatest political considerations; nor have they expressed any approbation, but have continued in a silent suspense. Moreover, they expect an immediate demand for many articles of their trade; and present advantage will generally outweigh future prospects; but it behoves them to be cautious how they step: 'latet anguis in herba.' The gaining an immediate trade, even to a large extent, cannot equal the risk of its total loss. You are now in a most flourishing state; be content whilst you are well, lest, by grasping at the shadow, you lose the substance. A right hon. gentleman, on a former debate, advised the extension of your trade to the nearest market; but surely, in this country, nothing can be so unwise; because the extent and increase of your trade to distant markets, is the increase of your navy. But, said the right hon. gentleman, if the Treaty tends to increase your trade, it must tend to increase your navy: the direct reverse is the fact; for extending your trade to France is destroying your navy, because the navigation is nothing; and if it was of any consequence, the French, being a naval power, would at least have as great a share as you can expect; so that you will be prevented trading to distant ports, and you will, if there is any benefit of navigation, give as much to France as you gain yourselves. Another hon. gentleman, a merchant, had advised the making France the carriers of our manufactures to America and other countries. Of all the arguments in favour of the Treaty, this seemed the most extraordinary, for it was annihilating our own navy to extend that of France, it was subverting the principle so ably laid down in the last session by a noble lord now in another House, of requiring all the trade of this kingdom to be navigated by British sailors, and carried in British vessels. But it was asked, Does this Treaty prevent your obtaining political connexions as before? Most undoubtedly it does; because it throws you into the arms of France, and disunites you from every other Power. Are you (say these gentlemen) called on to reduce your navy, and may you not look to the operations of France as usual? If your commerce to distant countries is lessened, your navy (that is, your number of sailors and trading vessels) must be reduced of course. But if her trade prove equal to what it is supposed it should be, it becomes this country well to consider, how she gives up her political situation in Europe, and her consequence on the globe, for commerce with France to any extent, much more for that which she is not sure of maintaining, and which will probably be attended with the loss ultimately of the whole.

The third question was, Are not some great and momentous objects of commerce totally omitted? It had been stated, and generally received as a fact, that Great Britain was not possessed of any thing which France had not, and that therefore the ingenuity of man could not devise a reciprocity for the admission of wine. This he denied, and he would take leave to affirm, that this country was possessed of an article which nature either had de-

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nied to France, or which she did not know that she possessed in any great degree, and which might become as great an object of consumption to France as wine now is to England. This article is coal; and indeed he was perfectly at a loss to conceive how a person, who understood the situation of the coal mines in the north could have suffered so very important an object of commerce and navigation to have escaped him. Those who are acquainted with that valuable article of trade, know well that it is inexhaustible; and that if all the world consumed no other fuel than English coal, there is sufficient to last millions of years; that there can be no danger of our want: we should therefore be selling what is less valuable than dirt at a very high price; we should prodigiously increase our revenue, and encourage our manufacture in that article, by the great increase of labourers in those mines. We should indeed be turning our dirt into gold; but what is much more important, we should, to a very great degree, extend and promote our navigation, if our export should be confined to our own shipping. The only objection advanced against this was, that they might rival our manufactures by obtaining our coal. Nothing could be more absurd than that position. First, you may prohibit the exportation when you please; but Norway and Sweden, who have iron in an infinite quantity, do import great quantities of your coal, and yet never had an idea of rivalling this country in manufacture; but if coal be an article of consequence in manufacture, how can one country rival the other, where to the first the coal pays a duty on exportation of 14*s.* per chaldron, added to the expense of 12*s.* per chaldron freight, and the expense of delivering on board a ship, and carriage from the vessel; and in the other, it is obtained for mere digging, without carriage, without duty, and without freight? It was therefore unpardonable in those who negociated this Treaty, to omit so important an article of commerce, in which the revenue and navigation of the country were likewise so deeply interested. Upon the whole, it appeared to him that a general treaty of commerce with France was not only dangerous, but ruinous; that this Treaty contained nothing like reciprocity in it, and that the important article of the commerce of this country was totally omitted. It therefore was ruinous, not advantageous; it was partial, not reciprocal.

Sir *James Johnstone* was extremely sorry to hear that we were all going to be ruined. He had imagined that the ratification of the Commercial Treaty was to introduce a day of jubilee and public rejoicing; that our fine women were to be finely dressed, our fine gentlemen wear fine clothes, our bishops procure claret, burgundy, and lawn sleeves, after paying the duty for them, and the electors get merry with French wines. How, therefore, was it possible that such a treaty could avoid pleasing the people? Long as they had been attached to French fashions, the female part must rejoice at the prospect of getting beautiful caps, charming ruffles, bonnets in the highest taste, and showy ribbands. And he, also, (sir James observed) although indifferent about the mode, should enjoy the attainment of a favourite point:—a blow to false trading. There was nothing which he had more at heart than the annihilation of smuggling.

Mr. *Dempster* said, that he understood the Irish Parliament had not complied with the tariff, but had fixed a still lower duty on French linens imported than was payable in Great Britain. This circumstance, which he learnt only from newspapers, for he had no other channel of information, alarmed him: and therefore he wished to know, if it was intended to copy the example here, or if, under the present Treaty, there was any power to lower the duties? He hinted at there having prevailed some doubts in France whether the rate of lowered Irish duties was not to govern the import of French linens into this country; a circumstance extremely material to the British linen manufacturers, as the linens could not stand against the French linens, if imported into Great Britain at as low duties as they were to be imported at into Ireland.

Mr. *Fox* said, that he should not have troubled the House at this stage of the business, very much as he disliked the Commercial Treaty with France, if some circumstances had not taken place which made it necessary for the Chancellor of the Exchequer to explain what seemed at present to be wrapped up in obscurity. Previous to what he had to say, he could not but acknowledge, that even if the Commercial Treaty, which the tariff, now going to be passed into a law, in his opinion absolutely confirmed, was in its nature for a season beneficial to the manufacturers of this country, yet eventually it was big with the most fatal consequences

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to its ancient policy and interests. This as well as other arguments, which he and his friends had adduced, had been interpreted to be the effects of superstition. If superstition arose from a chain of reasoning, that similar causes produced similar effects, then indeed he would acknowledge the charge. But convinced as he was, that the balance of this kingdom in the scale of Europe was not an idle dream, or the wild effusions of enthusiasm, he must retain his opinion, that the Treaty would give France such a weight and influence, as must most effectually establish her long-meditated scheme of being the sole arbitress of Europe. But he would now come to plain facts. Since the Treaty was signed, and even since it came into the House, a stipulation had been made in favour of Ireland, which would secure to the sister kingdom the exclusive branch of the linen trade. If there was a possibility of altering the terms of the Treaty, as it seemed there was, and relying merely upon the words of ministers, how was the nation certain that some farther explanation, at some future period, might not take place, in which case the minister might, in like manner, rest himself upon a similar stipulation of a secret nature, and explain away the meaning of the Treaty?

Having observed that rumours prevailed concerning the admission by Ireland of French linens into her ports at a lower duty than was laid upon them in England, and observed that it behoved Mr. Pitt to declare whether such reports were well founded, Mr. Fox next turned his attention to the 7th and 11th articles of the Treaty, by which the right to lower Portugal wines according to the Methuen Treaty is preserved. Upon the first opening of the business in the House, he had pressed the right hon. gentleman to explain himself, whether Spanish wine was to be included in the intended reduction. For a considerable time the right hon. gentleman had refused an explanation, except it was to be understood from this singular circumstance, that Spanish wine being by treaty to be imported upon the same terms with the Portugal wines under the Methuen Treaty, if Portugal acceded to a redress of grievances, that Treaty was to be contined; therefore, if the Methuen Treaty was to be still in force, and the stipulated reduction was to take place, then, and in that case only, Spanish wines were to be lowered accordingly. It had since appeared upon a farther and a very late explanation, that the minister of France understood that Spanish wines were to be lowered by the terms of the Treaty. The words of the Treaty by no means pointed out any such circumstance; and therefore another understanding and another compromise arose, neither of which were by any means either expressed or implied in the Treaty. What safety then could there be in such a compact, so liable to be explained away whenever policy or conveniency required it? For his own part, he still retained his earliest idea, that it would have been both political and honest to have negociated with Portugal first; and upon the event of that negociation, if successful, to have made a farther negociation with Spain; and then, if at all, to have entered into a Treaty with France. The reasons were obvious; for at present by negociating with France first, we had completely tied ourselves to comply with the demands, and, he would add, the just demands of Portugal and Spain, without the possibility of obtaining an equivalent; whereas, if we had negociated with those friendly Powers in the first instance, we should clearly have seen our ground, and might have had every advontage in our future negociation with France.

This led him to a farther consideration of the several treaties subsisting between Portugal, Spain, and England. By the Methuen Treaty, wine was allowed to be imported, one-third under the wine of France. By the Treaty with Spain, goods and merchandize (not particularly limiting the importation to wine) were to be imported from Sphin, under the same terms as the most favoured nation; so that this obvious absurdity must evidently arise, that Portugal being by the Treaty allowed only to import wine at one-third lower than France; and France being by the new Treaty allowed to import various species of other goods at a much smaller duty than Portugal, therefore Spain being by Treaty upon the terms of the most favoured nation, (upon the same terms with France) will be allowed to import all other articles except wine upon much more favourable terms than Portugal—a circumstance which would utterly destroy the spirit of the Methuen Treaty. Infinitely mischievous consequences may arise from this consideration; for instance, it may be the source of smuggling, and consequently the foundation of endless disputes amongst the mercantile part of the

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three nations. Indeed, the merchants of all the four nations may find themselves involved in it. This may be the occasion of future disputes, the extent and magnitude of which no human foresight can be equal to; it may prove the foundation of the total destruction of this much-boasted Treaty; and—when France is invigorated with her commerce, spread into every part of Europe, and the world, and her influence stretched out into every quarter of the globe—become attended with the most fatal consequences. He was well aware that ministers ought immediately to adopt measures by which these baneful effects might be obviated. Most particularly did it behove them to pursue some steps, that the effects of these jarring, ill-digested, and unmatured treaties, so hastily taken up, and so imprudently finished, might not create an immediate disgust amongst the several Powers with which they were contracted.

But his grand object was the political strength and influence of England itself, in the scale of Europe, independent of commercial views, although these had a great weight in his mind; yet the moment was lost, he feared inevitably lost. However, he hoped and trusted that ministers, now that Europe was in so great a degree thrown into the arms of France, would watch the motions of that power with a keen and suspicious eye, and that they would carefully observe all her movements, and take especial care to counteract her insidious designs of aspiring to universal power. Mr. Fox then begged pardon for being thus diffuse upon a subject which seemed not so immediately before the House, and which had been already so much agitated; but he considered it his especial duty; for, if the Consolidation Bill was to pass at the present moment, much as he admired its principles, yet it would in fact establish that tariff with respect to the duties in future to be imposed by the Commercial Treaty upon French commodities, and thereby confirm that Treaty. For these reasons, as well as for the farther reasons of wishing to have time to pass the several commercial bills, if they were to be passed, and to complete the Treaties with Spain and Portugal, he certainly should give his vote to postpone the third reading of the Consolidation Bill to a future day.

Mr. *Pitt* said, that with regard to the rumours alluded to of the conduct of Ireland in admitting French linens at a lower duty than was laid upon them in this country, they were founded in truth; but her reason for so doing was not from any difference of opinion with respect to the intent of the Treaty, but because that country had thought it safe to lay a lower duty on that article than it had been thought prudent to do in this country, as there was less danger there of the home manufacture being injured by the competition with France than there was here; and France had been willing to acquiesce in this mutual diminution of duty, from an expectation that by such means she should favour the importation of her other commodities into Ireland. But there was no intention nor stipulation whatsoever, that the duties on linen between France and Great Britain should be any farther reduced. The right hon. gentleman had dwelt much on the subject of our commerce with Spain; and although it was one, which, in the present state of our negociations with that country, it was not perfectly proper to discuss at large, yet he should give the right hon. gentleman an answer to a considerable part of his argument. The right hon. gentleman had expatiated also upon the general construction of treaties, and had drawn a distinction between certain terms when used in ancient treaties, and the same terms when introduced in modern treaties. He should not be unwilling to acknowledge to the full extent this distinction; but it so happened that no argument could be drawn from thence applicable to the present subject. There was no question depending on the construction of any of our treaties with Spain, with which the circumstance mentioned by the right hon. gentleman could in any degree interfere. The point with respect to the lowering the duty on Spanish wines in the same proportion with those on the wines of Portugal, did not turn upon any construction of ancient treaties between this country and Spain, by which we were entitled to demand from France a right of extending to that country the same privileges, and the same commercial indulgencies as were granted to Portugal: nor did it turn upon any construction of the 7th and 11th articles of the French Treaty, as determined between Great Britain and France. But France, knowing our construction of those articles, had consented and agreed that we should conform to that construction, without entering at all into the discussion of what con-

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struction the articles in themselves might strictly bear. In the pending state of our arrangements with Spain, he should not think himself at liberty to declare in that House what was his precise idea of the claims which that Court might have on this, with respect to the footing she was to stand upon in comparison with Portugal or other nations; those claims were now under discussion between the two countries, and he hoped to stand excused, if he declined entering into their nature and tendency.

Mr. *Sheridan* contended, that the right hon. gentleman had not yet answered Mr. Fox's argument relative to the situation of this country and Spain. How awkwardly, he observed, would ministers be circumstanced, should a Spanish vessel offer herself at any of our ports, and be refused the same rates of duty at which French goods were admitted. In this case the Court of Madrid would understand the Treaty of Utrecht to be broken. He next took notice of what had fallen from Sir James Johnstone, who, he said, spoke generally with a sort of Lacedemonian eloquence. What the hon. baronet had said jocosely of the Treaty, with respect to its enabling them to get fine clothes, fine cambrics, and fine laces, and the wines of France to intoxicate their constituents, was in effect one serious reason of his disliking the Treaty, because it tended to put the country in a condition to forget her former situation, and lose sight of it altogether. Mr. Sheridan condemned the Treaty on various accounts, and took occasion to mention the absolute necessity of coming to some commercial arrangement with Ireland. He had been in hopes that the bringing forward that business would have been taken out of his hands by his Majesty's ministers; but if it were not soon done, he would, after the holidays, make a motion on the subject. It was impossible that the two countries should continue as they were, both looking with their faces full to France, and merely casting a sullen side glance at each other. He begged leave to remind the right hon. gentleman, that when the Irish propositions were in agitation, he had himself urged it as an argument for agreeing to them, that if an arrangement was not forthwith made with Ireland, we should force her into the arms of France.

The question being put, that the Bill do pass, the House divided:

Tellers.

Yeas	Mr. Neville Mr. Rose	119
Noes	Mr. Joliffe Mr. Sheridan	43

So it was resolved in the affirmative.

Debate in the Lords on the Consolidation Bill.] April 19. The order of the day being read,

The Earl of *Coventry* entered into an eulogium on the Commercial Treaty, and the Consolidation-duty Bill. He allowed, that the principles which commanded respect in former times, still held their estimation; but the mode was altered in respect to the executive part of our constitution. Some ideas had arisen, that the consolidation of the duties was not strictly conformable to the rules entered upon the Journals of Parliament; but it clearly appeared to him, that, in the present instance, there was not cause for an objection of that kind; and considering it in that point of view, and being a strenuous well-wisher to the present system of government, he should move, "That the Bill be committed for Friday."

The Earl of *Carlisle* considered the Bill to be of very great importance; it respected the well-being of our constitution; it materially affected the rights, liberties, and indeed the very existence of the House of Lords, as a free branch of the Legislature, and therefore demanded a most serious investigation. The custom of Parliament, since parliaments were deemed to be of consequence in this kingdom, was, that two matters of a distinct and separate nature were not to be joined in one and the same bill; but as an *ipse dixit* on such an occasion as the present could have but little weight, unless it was enforced by the auxiliary assistance of proofs to substantiate its validity, he should take the liberty of calling in the aid of several resolutions on their lordships Journals, the letter and spirit of which were so directly repugnant to the system which the present bill went to establish, that he trusted every noble lord would see the propriety of not unconditionally acceding to the motion made by the noble earl. The Bill contained such an immense variety of matter, formed on so many hundred resolutions, and so complicated, that it really carried an alarm in its title. It went to the formation of a precedent that must make a cypher of the House of

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Lords, subvert the constitution of Parliament, and overturn the dearest rights of the people. To prove this, he desired the clerk to turn to the Journals in the reign of Charles 2, when some attempts were made to introduce a new plan of government. It was at the time that sir Heneage Finch, afterwards earl of Nottingham, was chancellor: and perhaps there was not an argument in the power of man which spoke stronger against the principle of the Bill now moved to be committed, than the order then entered upon the Journals of the House. It stated, that any bill brought into Parliament, which connected with a money-bill, any matter in itself abstracted from that money-bill, and which was tacked thereto for the purpose of gaining an assent to the one, because the other claimed the necessity of an assent, was unconstitutional, and subversive of the rights of the people. The noble earl dwelt on this point, in order that, as the present Bill purported to raise money by new taxes, at the same that it wore the double appearance of a consolidation of the customs and excise, and a reciprocal commercial treaty with France, Spain, and Portugal, it was in fact a direct negative to all the precedents on the Journals, and a disdainful want of respect to the wisdom of those Parliaments to whom Great Britain stands indebted for all that she now possesses. His opinion therefore was, that the subject should be divided, that the Treaty with France should be one thing, the consolidation of the duties another, and the new tax a third matter. He should for these reasons oppose the commitment; and if that was carried, he meant to offer two motions to the House. He begged that this opposition should not be considered as arising from any party motives; it sprang from a real regard to the constitution, whose free existence must be materially injured if the present Bill passed into a law.

Lord *Sydney* was as anxious to preserve the different privileges of the two Houses as any noble lord could be; but he begged leave to differ very materially from the noble earl who had spoken last, as that noble earl had certainly mis-stated the constituent parts of the Bill before their lordships. He admitted the Bill involved a prodigious variety of articles, but those articles were by no means dissimilar or heterogeneous. They were all directed to one end, and subject to one arrangement.

He stated the several duties comprehended under one bill. The old duties were simplified for the sake both of rendering the business of the customs more convenient, and improving the revenue. The only duties which had any appearance of novelty, were those on timber. The Treaty necessarily came under the same arrangement, as most of the French articles would now be imported on the same terms with those from other countries. So that, in fact, he was totally at a loss to see any inconsistency or incongruity in the Bill, and therefore hoped it would be committed.

Lord *Porchester* observed, that he expected something from the noble lord in reply to what had been advanced by the noble earl who spoke second in the debate. But such was the barrenness of argument, and the total want of justice, that ministry refused to support their own measures. The matter now before the House, was so plain in itself, that ingenuity could not baffle it even by sophistry. The Bill was a direct attack upon the constitution, and an open declaration to their lordships, that in future they were to be considered as cyphers in the Legislature. What else could be the result of a bill which openly tacked to a political matter, a money consideration, merely for the purpose of insulting their lordships with this threat, "If you refuse what we send as to the new duties on timber, &c. you then refuse the Commercial Treaty." This he conceived to be a very high offence to the Constitution, and something not far from a declared opinion of ministry, that the House of Lords was a cypher.

The Earl of *Hopetoun* did not see the Bill in the light of a money bill; much less did he apprehend the numerous bad consequences which the noble lords figured from its passing into a law in its present form. It did not, in his opinion, affect in any degree the privileges of their lordships. He should, therefore, vote for its being committed.

Lord *Walsingham* defended the Bill on principles of expediency, convenience, and necessity. He begged their lordships to consider the tendency of the several articles of which the Bill consisted. They were all intimately connected with the revenue, and calculated either to secure or improve it. Besides, there would be no other way of preventing two books of rates; and, considering the confusion which had formerly distinguished the business of

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the customs, he trusted their lordships and the public would think this no trivial object.

Viscount *Stormont* was extremely concerned to observe so much want of attention and of respect in ministers to the privileges of Parliament, as the Bill now on the table indicated them to possess. He trembled for the consequences of the debate. He was afraid it would leave a precedent behind it of the most fatal tendency. It was not merely for a parliamentary form that they were contending, but a constitutional principle, and a principle the wisdom and utility of which were manifest. To argue that this Bill was not complicated and heterogeneous, was to argue in a way very loose indeed: for what could be more opposite than the internal regulation of duties, and the final arrangement of a great external contract? Surely if these things had been huddled together by chance, they ought not to be defended by argument. Taking it in a no more hostile way than that they had been all confounded in the same Bill, merely to save time, or to save labour, were they, merely for the sake of a convenience, to sacrifice a principle? The Constitution was involved in the question; for the standing order of the House stated, that the annexing any foreign matter to a Bill of aid or supply was an unparliamentary proceeding, and destructive of an essential principle of the Constitution. It was certain that the most enlightened of our ancestors thought it so essential to prevent the House of Commons from mixing with Bills of supply any other matter, that innumerable precedents occurred in the journals, of the spirit and determination of the House in rejecting Bills under that imputation. In a speech of Lord Chancellor Northington, he said that the mixture of any matter incongruous ought to dispose the Lords at all times to reject any Bill of supply so presented to them. He professed his astonishment that the noble and learned lord on the woolsack, whose vigilance and zeal in maintaining the dignity of the House he had ever remarked with pleasure, should on this occasion be supine and indifferent.

Lord *Hawkesbury* observed, that the regulation of the House with respect to complex money bills was perfectly sound and wise. The standing order was founded in the best policy, and he was persuaded their lordships would constantly preserve their privileges. But he must observe, that after looking through the Journals of the House for precedents, he found that the protests had been entered against bills of supply for the service of the year, and not against money bills of the nature of the present, where the money was a diminutive object, and came in, not as a matter of supply, but collaterally as a branch of a system. He enumerated the several protests on the Journals on this head, and contended, that the Bill now before the House was by no means of the kind which excited the jealousy of the House, or on which they thought it necessary to show the exercise of their right. He stated the reasons for coupling the several subjects together: though different, they were connected. The book of rates was to be made out, and to the complete arrangement of that book the junction of the measures was required. He answered the arguments that had been thrown out respecting the reduction of Portugal and Spanish wines, and concluded with a comparison of the miserable and shattered condition of France, as recently exemplified in the dismission of her ministers on account of the clamours against them, with the flourishing state of England, where, in proposing means for the simplification of the duties, and the collection of the revenue, though the debt was so large, and the taxes so heavy, there was a spirit that made us harmonize in the means, and an ability that made us sustain the task.

Lord *Loughborough* could not sit silent, he said, under the very strange and very new doctrines thrown out by the noble lord who spoke last, on the difference between bills of supply and mere money bills. It was a novelty of the most alarming kind, and went to the destruction of the constitutional principle on which the standing order was founded. He contended, that their dignity was annihilated and their use in the Legislature at an end, if they were not at liberty to use their discretion whenever the House of Commons chose to insert a clause about money in any bill that they wished to rescue from the danger of deliberation. He asserted, that the subjects in the Bill before them were most opposite in their nature, and that the argument that they had the most distant connexion with one another could not be sustained even for a single moment.

The *Lord Chancellor* observed, that no one peer could feel more sensibly than he did the necessity of supporting the dignity

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and the privileges of the House. It was his most fervent wish to preserve their rights in the most sacred purity, and he thought no one thing was more essential to their true importance than the right of preventing any money-bill from coming before them coupled with other matter. But the present bill was certainly not of the quality that could excite the alarm of the House. He argued against the idea of its being a money bill in any respect, any more than they would call a turnpike or a canal bill, a money bill.

Earl *Stanhope*, without meaning any thing hostile to the present minister, must deliver his solemn opinion against the doctrine of the noble lord lately come into that assembly. It was a doctrine which struck at the root of the constitution, and which demolished a privilege not appertaining to the House in their own right, or for their own honour, but as a sacred deposit in their hands as trustees for the people.

The question was then put on the commitment: Contents, 70; Not-contents, 29.

Debate in the Commons on the Articles of Charge against Mr. Hastings—Revenues of Bengal.] April 19. The House, according to order, resolved itself into a committee of the whole House, to consider further of the several Articles of Charge of High Crimes and Misdemeanors against Warren Hastings, esq. late Governor-general of Bengal; Mr. St. John in the Chair.

Mr. *Francis* rose, for the purpose of opening the Charge respecting the Bengal Revenues, and spoke as follows:

It is not possible, Sir, for any man to address this House with greater reason than I have to solicit their indulgence. I thoroughly feel the importance of the charge, which I have undertaken to lay before you; but, I fear it will have nothing else to recommend it. Other gentlemen, who have taken part in the impeachment of Mr. Hastings, with a great superiority of abilities, have had the advantage of selecting the objects, by which their own minds were most affected, or which were likely to make the deepest impression upon yours. The field is fertile enough to furnish materials and employment for talents of every sort. My hon. friends, who have preceded me, had their choice of lively animated guilt, of prominent, audacious violence, of bold exalted treachery, or of direct and palpable corruption. The task, reserved for me, is attended with every discouragement. I am to call you to the performance of a duty, which offers to you no recompence, unless it be in the reflection of having performed it. The subject of the present charge is dull and intricate, and you will find it involved in a studied obscurity. Mr. Hastings, in every other part of his conduct, comes directly into view, and is open to pursuit. The collection and management of the revenues of distant kingdoms, disposed of for years without inquiry or account, is a perfect labyrinth, in which, though you are sure that fraud, oppression, and embezzlement have taken shelter, it is hardly in the power of human patience to follow and detect them. I have exerted my utmost industry to possess myself of the subject, and to enable me to make it intelligible to the House. It deserves your consideration, but it will require your attention. Since we assume the right of making laws for nations, with whom we are connected by nothing but the power we have over them, we should endeavour to qualify ourselves for the office we assume. The people of India will not dispute the right, if we exercise the power with justice. But to govern nations justly without a thorough knowledge of their situation, or to obtain that knowledge without labour, is impossible.

Before I enter on the task allotted to me, I have some preliminary explanations to offer to the committee, to which I must request their attention for a few minutes. Considering the relation in which I have stood to Mr. Hastings, it is very necessary that the active part I have taken against him should be fairly and completely accounted for. I am, at all times, anxious to stand clear in the opinion of this House and of the public; but, on this day, I owe it to the trust reposed in me, to take care that the public service may not suffer by any imputations thrown upon myself. There is a generous disposition in the human mind, though not strictly consistent with justice, to mix the motives of the accuser with the merits of the accusation. We are apt to take part, perhaps without perceiving it, even in favour of acknowledged guilt, if we see the prosecution of it promoted and inflamed by personal malignity or revenge. He, therefore, who accuses another, is generally expected to begin with defending himself. I, for my part, am compelled to take this course. I

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feel and know, that I lose weight as an accuser, because I am suspected to be an enemy. Sir, I do not mean to admit, that the two characters are incompatible, or that one should be a disqualification for the other. But I do assert, and I hope I shall be able to satisfy the House, that in me they are not united. How the suspicion has been propagated against me, how the opinion of a careless, ill-informed public may be prejudiced on any subject, how a character of the most exalted virtue, or of the basest depravity, may be made for any man, are things well known to every one, who knows any thing of this town. A multitude of voices employed about one person and repeating the same falsehoods; a multitude of pens, or even the same pen, under a variety of signatures,* incessantly practising on the public credulity, are sufficient, for a time, to raise or to ruin the reputation of any individual. He who is rich enough to purchase the press, has in a great degree the command of the opinions of this country. Beyond the limits of this town, who knows any thing of public men, or of public affairs, but what is gathered from the newspapers? I need not tell you that no pains or expense have been spared, to traduce my character in particular. I was known to have opposed Mr. Hastings in almost every act of his government; of course I must be his enemy. It was known that my language concerning him had never varied, that I was still his accuser in England as I had been in Bengal, and that I had never relaxed in my endeavours to bring him to justice; of course I was implacable. The premises are true; but, do they warrant the conclusion? If they do, I am instantly the

* Mr. Francis here alluded to the following Account, which appeared in the Morning Herald, of April 5, 1787:—

"The reporters of last Monday's debate in a certain assembly stated the following Declaration, as made that day by major Scott on the subject of the 7000*l.*, which he said he had expended in the service of Mr. Hastings, viz.

EXTRACT.

'He (the Major) said, that if the fortune 'of Mr. Hastings had been impaired by 'bribes bestowed in this kingdom, the ex-'penditure must have been through his hands; 'but he could declare, on the contrary, that 'the greatest bribe he had ever bestowed was 'upon the editor of the Morning Herald, who 'had since repaid him with the continuance of 'abuse, though his sole offence had been, that 'he paid on that occasion the full amount of 'what had been demanded. He could also 'plead the merit of having expended, on the 'account of Mr. Hastings, upwards of 7000*l.* 'in procuring intelligence, and forwarding 'dispatches to India.'

"The gentleman who was editor of this paper at the period to which the above declaration alludes, thinks it incumbent upon him to refute so illiberal and groundless a charge.

"What may have been major Scott's transactions in the various printing-offices of the metropolis, to which his active zeal for his employer has so repeatedly transported him, the writer of this article neither knows nor cares; nor will he dispute, but that the unfortunate Governor-general of Bengal may find himself minus 7000*l.*, or that in a bustle of such complicated agency, major Scott may accidentally have charged that sum for the secret service of the Morning Herald, which, upon recollection, will be found to have been more prudentially applied. All the writer will contend is, that he never had the most remote correspondence, directly or indirectly, with major Scott, or any of his connexions, in the course of his life. That, to the best of his recollection, he never beheld the person of the major, till he saw him on Tuesday last upon his legs in the House of Commons, and consequently that the bribe alluded to must have been administered under the lulling influence of an opium contract, when the receiver's mind could not possibly be impressed with a due sense of the obligation.

"With respect to the abuse, as stated by the major, it is an expression almost too vague for a reply. If to have been represented in his true official character, as traducing agent to Mr. Hastings, or to have had the mortification of finding a small share of his own wide-spreading invectives recoil upon himself, by what he deems 'an abusive return,' the major may possibly have experienced it. The editor is free to confess, that he did once interfere with major Scott's newspaper system, and that in a manner which may probably have provoked his resentment, viz. in preventing the continuation of his oriental correspondence through the channel of the Morning Herald, as objectionable for its uninteresting prolixity, but more so on the score of its increasing personality!

"The pecuniary transactions between major Scott and the Morning Herald office, the following account current, extracted from the books, and attested upon oath, will fully explain. Involving a detail, which, but for the unexampled conduct of major Scott, must always have remained confidential, it is painful to be compelled to lay such a statement before the public; but for this, amidst various other insinuations, major Scott alone must be responsible to his ill-fated employer."

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worst of the human species. In spite of the proverb, I am *repenté turpissimus*, without any one of the motives that usually corrupt the human heart. Was it ambition? I was the youngest of the council, and could gain nothing by his removal. Was it revenge? my opposition to him began the moment I knew him, and to this hour I do not know that he ever did me a personal injury. Was it

AFFIDAVIT.

Middlesex } ‘Thomas Hurlstone, of the
to wit. } ‘parish of St. Paul, Covent ‘Garden, in the county of Middlesex, chief ‘clerk and treasurer of the Morning Herald ‘office, voluntarily maketh oath and saith, ‘that on or about the 17th of September ‘1782, major Scott came to the said office, ‘and said, he should have occasion to publish ‘various letters, paragraphs, &c. in the said ‘Morning Herald on East India matters, in favour of Mr. Hastings, then Governor-general ‘of Bengal, or words to that purpose, for ‘which he would pay the customary charges. ‘That the account subjoined was accordingly ‘opened with the said major Scott, who from ‘that period became a frequent visitor at the ‘said office, to bring his different writings for ‘publication. That the Morning Herald was ‘for more than fifteen months open to the ‘correspondence of the said major Scott on ‘Asiatic subjects. That the said major Scott, ‘during the course of these transactions, ‘several times expressed his earnest desire to ‘be introduced to the gentleman at that time ‘proprietor and editor of the Morning Herald, ‘and commissioned the deponent to make ‘his (major Scott’s) compliments to him, requesting an interview with him, which the ‘said proprietor and editor as repeatedly declined.

‘And this deponent farther saith, That he ‘verily believes no other sum of money was ‘ever paid by the said major Scott to any ‘person whatever, on account of the Morning ‘Herald, than what is stated as taken, and ‘will appear by the following authentic account, extracted from the books of the said ‘Morning Herald office:—

‘T. HURLSTONE.’

‘Sworn at the Public-office in Bow-street this 4th day of April 1787, before me,

‘WM. KITCHENER.’

ACCOUNT.

MAJOR SCOTT to the MORNING HERALD, Dr.

1782.				
Sept. 19.	Introductory Letter, signed Juvenis	2	2	0
23.	Letter addressed to the right hon. Edmund Burke and general Richard Smith, signed Asiaticus	1	11	6
Oct. 7.	Letter the first, signed Detector	2	12	6
9.	Detector’s second Letter	2	2	0
12.	Ditto third Letter	3	3	0
15.	Letter signed Asiaticus	1	1	0
	A puff for a publication of the Major’s, intituled, a Review of the Transactions in Bengal	0	7	0
15.	Fourth Letter, signed Detector	2	12	6
18.	Fifth ditto ditto	3	3	0
	Two Paragraphs in favour of Mr. Hastings	0	11	0
21.	Sixth Letter, signed Detector	3	3	0
	Paragraph, in answer to one inserted in an Evening Paper against Mr. Hastings	0	9	0
23.	Seventh Letter, signed Detector	4	9	0
26.	Major Scott’s Speech in defence of Mr. Hastings at the East India House	5	10	6
28.	Continuation of the above Speech	2	6	6
	Eighth Letter, signed Detector	4	4	0
31.	Letter, addressed to the East India Proprietors	2	2	0
	An Advertisement, signed John Scott	0	5	0
Nov. 1.	Ninth Letter, signed Detector	3	10	0
2.	Paragraph in defence of Mr. Hastings	0	8	0
	Tenth Letter, signed Detector	3	11	6
5.	Letter addressed to the Proprietors of East India stock, signed an Independent Proprietor	1	1	0
11.	Eleventh Letter, signed Detector	4	14	6
Nov. 12.	Paragraph, contradicting another inserted in a Morning Paper	0	5	6
13.	Letter signed Asiaticus	1	11	6
18.	Part of Detector’s 12th Letter	1	11	6
20.	Twelfth Letter concluded	3	10	0
25.	Thirteenth Letter, signed Detector	1	17	6
29.	Paragraph	0	6	0
	Paid December	£. 64	1	6
Dec. 20.	Queries to Mr. Fox, Mr. Burke, and general Smith, signed An Independent Proprietor	1	11	6
25.	Governor Johnstone’s Speech	1	11	6
1783.				
Jan. 6.	Justification of the Mahratta war	0	13	0
Feb. 10.	Letter addressed to general Smith, signed Jackall	1	11	6
	Advertisement for a servant	0	3	6
13.	Letter to the Proprietors of East India stock, signed an Independent Proprietor	2	2	0
17.	Puff for major Scott, on his eagerness to give the Directors the earliest intelligence from India	1	11	6
25.	Letter addressed to the hon. Edmund Burke, signed Asiaticus	1	11	6
Mar. 4.	Paragraph in favour of Mr. Hastings			
5.	Ditto	1	2	0
6.	Ditto			
7.	Ditto			
10.	Letter to the right hon. Edmund Burke, signed Asiaticus	2	12	6

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avarice? look round you and doubt if you can, whether there be any degree of fortune, which I might not have commanded by joining Mr. Hastings. What conceivable motive could I have had for opposing him, if it was not a good one? Surely, sir, I may be permitted to say, that before I was appointed to be his col-

	27. Letter, signed An Old Correspondent	1	11	6
	31. Ditto, addressed to the Proprietors of East India stock, signed An Independent Proprietor	1	1	0
Paid by major Scott, 30th April 1783 £.		17	3	0
April	7. Notice of the publication of a pamphlet by major Scott	0	7	0
	Paragraph in favour of Mr. Hastings	0	6	0
	12. Part of governor Johnstone's Speech relative to Mr. Hastings	0	15	0
	17. Letter to general Smith, signed Asiaticus	1	11	6
	22. A Defence of Mr. Hastings's conduct	1	11	6
	24. Article relative to the appointment of a Paymaster in India	0	12	0
	25. Against the Select Committee	0	5	6
April	25. Paragraph asserting that Mr. Hastings had not exceeded the limitations of the Regulating Act	0	5	6
	25. Do. endeavouring to ridicule Mr. Burke	0	5	6
	28. Letter the first on India Affairs, signed Detector	2	12	6
	29. Paragraph in favour of an extension of power to be given to the Governor-general	0	9	6
	Do. reprobating Mr. Burke's conduct relative to Mr. Hastings	0	8	6
	30. Do. an attack on Mr. Burke's veracity	0	5	6
	30. Defence of Mr. Hastings's borrowing eight hundred thousand pounds of the gentlemen in and out of the Company's service	1	11	6
Paid by major Scott, May 1783 £.		11	7	0
May	1. India Affairs, Letter 2d, signed Detector	2	12	6
	5. Paragraph charging Mr. Burke with inconsistency	0	9	0
	India Affairs, Letter 3d, signed Detector	2	12	6
	15. Ditto, Letter 4th, ditto	3	12	6
	21. Relative to the Select Committee's conduct	0	9	6
	29. Against general Smith	0	5	6
	Asserting that no attention was paid to the speeches of Mr. Burke	0	5	6
	Letter to the right hon. E. Burke, signed No Delinquent	1	1	0
	31. That mischievous consequences might result from the vote of the House of Commons	1	11	6
Paid by Major Scott, July 1783 £.		12	19	6

June	9. To the proprietors of East India stock, Letter 15th, signed An Independent Proprietor	1	1	0
	10. Stating, that under the authority of Parliament an inquiry would take place into the conduct of several gentlemen in opposition to Mr. Hastings in India	0	6	6
	16. Two Paragraphs in favour of Mr. Hastings	0	11	0
July	For advertising a pamphlet by major Scott, intituled Two Letters to the right hon. E. Burke, 13 days in the front of the paper	3	11	6
	17. Letter addressed to Mr. Debrett, bookseller, signed Detector	2	2	0
	30. Letter in praise of major Scott's two Letters to Mr. Burke, signed A Citizen	1	1	0
	31. Charging Mr. Burke with waste of the public treasure by Mr. William Burke's appointment in India	0	12	6
Aug.	1. Advertising a pamphlet	0	5	6
	2. Letter, signed A Citizen	1	8	0
	5. Ditto, signed ditto	2	2	0
	8. Ditto, praising the Preface to major Scott's pamphlet, addressed to Mr. Burke, signed A Citizen	2	2	0
	11. Defence of Mr. Hastings's conduct towards the Munny Begums, signed A Citizen	2	8	0
	14. Defence of Mr. Hastings for receiving ten lacks of rupees from the Vizier, signed A Citizen	2	12	6
	21. Remarks on the Tenth Report, signed a Citizen	1	11	6
Sept.	6. Advertising the Citizen's Letters collected into a pamphlet, in the front of the papers, on the 9th and 11th	0	11	0
	11. Letter blaming Mr. Debrett for not advertising major Scott's pamphlet, with the Ninth Report, signed A Citizen	0	14	0
	Advertising the Citizen's Letters in the front of the paper, on the 12th, 13th, 15th, 16th, 18th and 19th	1	13	0
Paid by major Scott, October 1783 £.		24	13	0
Oct.	29. Letter stating that no useful purpose had arisen from the parliamentary investigation into Mr. Hastings's conduct, signed An Independent Proprietor	2	2	0
Nov.	3. Ditto to the proprietors of East India Stock, signed A Citizen and a Young Proprietor	1	5	0
Nov.	4. Ditto, signed an Independent Proprietor	1	5	0

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league in the government of Bengal, I stood well in the estimation of those who knew me. Lord Holland placed me in the Secretary of State's office. I was favoured and protected there by lord Chatham; and the late earl of Egremont promised me preferment, if I would continue in his office. In the year 1763, my right hon. friend near me (Mr. Ellis) removed me to a considerable employment in the War-office. In the year 1773, my lord Barrington, who succeeded him, recommended me to the noble lord, (North) who was then at the head of the administration, whose absence and the cause of it I very sincerely lament. He accepted of the character he had received of me from the persons, under whom I had served, from Mr. Ellis and Lord Barrington, and, without any personal knowledge of me,

5. Paragraph contradicting a report that Mr. Hastings's friends meant to move for settling lord Clive's jaghire on him	0	8	0
7. To the proprietors of East India Stock, signed Detector	2	2	0
10. Speech of Mr. Sulivan, &c. at the India house in favour of Mr. Hastings	1	11	6
13. Two paragraphs stating the substance of speeches in favour of Mr. Hastings	0	16	0
18. Letter signed a Citizen	1	11	6
20. Paragraph expressing that Mr. Hastings impatiently waited to reply to the charges made against him	0	5	6
Paid by major Scott, December £.	11	6	6
Dec. 8. Article relative to Mr. Fox's India Bill	0	16	0
17. Letter to the right hon. E. Burke, signed Porus	2	2	0
18. Ditto to Mr. Burke, signed Porus	2	12	6
Paid by major Scott, Sept. 1784 £.	5	10	6
Total £.	144	18	6

Attested, T. Hurlstone.

Most of the articles took up from one to four columns of the paper.

"The accompt books and the volumes of the Morning Herald lay open for the inspection of any gentleman who may wish to satisfy himself of the truth of the above.

"Having thus laid the whole circumstances of this singular case before the public, it only remains for the writer of this article to declare, that the words above cited, and given by the reporters as the words of major Scott, contain 'the grossest falsehood that ever was uttered for the purposes of Deception!'

recommended me to parliament. I went with a fair character to India, and I have brought it back unblemished. If any crime could have been laid to my charge, there has been no want of inclination to accuse me, nor of power to protect and reward my accusers. I alone, if I have offended, have no mercy to expect.—As long as I was in India, I received the approbation of every person in the direction and in the administration, who was qualified to judge of my conduct.—Sir, I am far from professing to value myself on the applause of the Court of Directors, or to attribute any weight to their opinion. They approved of my conduct for six years together, and refused to see me when I returned. Mr. Lawrence Sullivan was then at the head of the direction. To Mr. Hastings their proceeding was directly the reverse. He tells you himself, [28th Nov. 1783.] "that the benevolence which that honorable court had shown to all, even the meanest of his predecessors, had been denied to him alone, and to him invariably." Yet to him they voted their unanimous thanks for his long, able, and faithful services. In the year 1773, no man's character stood higher in England, than that of Mr. Hastings. There was no point in which general Clavering, colonel Monson, and I were so heartily united, as in the favourable opinion we all entertained of him. General Clavering in particular was so apprehensive of his quitting India, that he ventured to solicit his Majesty to confer some mark of honour upon him, as an inducement to him to continue in the government. Our confidence in him was for the first time shaken by the information we received at Madras. At that place we heard of the Rohilla war, and of the committee of circuit. But, on our arrival in Bengal, the veil that concealed his true character from us, was immediately removed. It was impossible to look at his measures, his connexions, or even at his deportment to us, without perceiving at once how grossly we had been deceived in him. We not only found ourselves utterly mistaken in our ideas of his integrity, but, what may be thought perhaps more extraordinary, he appeared to us to be a man without temper, knowledge, or judgment. We were sent out by Parliament to assist him in reforming abuses; we found him implicated in every abuse, and the leader in most of them. From that period, that is, from the moment we knew him, our

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opposition to him began. If it arose from personal animosity in me, the same base motive may with equal reason be imputed to colonel Monson and general Clavering. Their opposition to him was at least as hostile as mine, and they persevered in it to their death. As to instances of passionate language or personal disrespect, I will venture to affirm, that I never violated the forms of civility towards him. General Clavering, on the contrary, seldom spoke to him but in terms of reproach. Observe what language he held to Mr. Hastings. "The malicious view, with which this inuendo is thrown out, is only worthy of a man who, having disgraced himself in the eyes of every man of honour, both in Asia and Europe, having no imputation to lay to our charge, has dared to attempt in the dark, what malice itself could not find grounds to aim at openly." [31st March, 1777. App. to 6th Report, No. 15.] I affirm that the minute, in which Mr. Hastings is reproached with collusion with his Banian, and with having practised every species of peculation, was drawn up by colonel Monson. But are we the only enemies—are we the only opponents, whom Mr. Hastings has met with in his council? The records on the table will show you that he never had a colleague, with whom he was not at variance at some period or other. Before we arrived in India, that is, before he saw the necessity of uniting with Mr. Barwell, no two men could stand on worse terms than they did. Their enmity was so well known, that it was made an objection to Mr. Barwell's appointment in the new commission, and would have been fatal to it, if his friends in England had not engaged for his future good behaviour. Did Mr. Hastings agree any better with Mr. Wheler? Sir, Mr. Wheler not only opposed him constantly in his measures for three years together, but sometimes did it in such terms, that Mr. Hastings charges him repeatedly "with not having made him the return that was due either to his public character, or personal behaviour." [Revenue Consultation, 20th Oct. 1778.] Mr. Wheler, the mildest and most moderate of men! Against Mr. Mac Pherson he was so exasperated, that he ventured even to accuse him of having drawn up Mr. Bristow's defence against the charges, which Mr. Hastings had exhibited against him; and as to Mr. Stables it is well known, that they scarce ever agreed in any thing. But sir Eyre Coote was united with him. Sir Eyre Coote was his friend. I have some reason to remember it. Observe how that gentleman speaks of Mr. Hastings. Nor will I deny myself the satisfaction of committing in this place to record, that I ascribe the whole of these late incroachments upon the rights of my station to the Governor-general, as he now unites in his own person the whole powers of government, and who, in his public character, I had a right to have expected a far different treatment from. [1st March, 1781. 5th Report Select Committee, page 42.] In a letter written on purpose to be laid before the King, he accuses Mr. Hastings of preventing a peace with the Mahrattas in the year 1779, by a clandestine proceeding of the most criminal sort. His words are: "I am now convinced more than ever that it might have been properly effected, had not Mr. Hastings's correspondence with Goddard spoke a very different language." [Letter to sir Thomas Rumbold, 27th Jan. 1780.] In another place he says, "No sooner did I quit the Presidency to attend to the business of my own particular department, which it was absolutely necessary to do in these distant stations, than he has broke out into the most wanton exertions of power against the public good, and tries every means, by private insinuations and letters through third hands, to lower my consequence among the country powers here, and embroil me with the army." In the same letter, sir Eyre Coote charges him not only with the most ruinous public, but with the most *Jesuitical* private proceedings. Is there any thing that I ever said of Mr. Hastings to be compared to this language? and would you set all these men aside as prosecutors, as accusers, or evidence? Why? because they were best informed; because they were exasperated at what they saw, and were a little too unguarded in expressing their indignation. The same principles would oblige you to set aside the Court of Directors, from whom, as he very truly tells you, he received nothing but reproach, hard epithets or indignities.* As

* "When I required all the support and confidence of my superiors, all my actions were reprobated at home, and my name linked to the foulest invectives, even in places of the highest authority; and every dispatch from England brought orders opposing my measures in their course, and the sentences of my disgrace and dismission. On my return to my own country, I was received by the Court

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to myself, I defy any man to show a probable cause of private personal enmity between me and Mr. Hastings. Had we ever a dispute about property? or in the heat of wine? or of play? never. Or were we rivals for the same mistress? No. Why then am *I* the single object of all his resentment, and of all the animosity of his friends? Because my colleagues are dead. Because I have survived them. I accept of the inheritance with all its duties and incumbrances, and will execute the trust which has devolved to me, notwithstanding any difficulty or distress that may belong to it. But, it seems there is a law of private and personal decorum arising out of a special fact, which ought to restrain me from taking part in the present prosecution. It is said that having had a duel with Mr. Hastings, all our differences should have terminated there. I well know that such an opinion exists in the minds of men: that it stands solely on custom and caprice, but that it is too powerful to be resisted. You have been insulted; you have been shot through the body, and you ought to be satisfied. I need not inquire whether this be a reasonable conclusion or not. I need not question the justice or wisdom of a law which I have not violated. Besides, weighing the matter carefully in my own breast, I have consulted men of undoubted authority, both for strictness and experience in affairs of this nature. I have been guided by their judgment, and my mind is satisfied. Had a private quarrel or cause of quarrel, at any time, existed between Mr. Hastings and me, I think that the duel should have put an end to it. The event of a duel is a decision in the last resort, beyond which there is no appeal. By these principles I am willing that my conduct should be tried. The immediate cause of my challenging Mr. Hastings arose from a public not a private question. Of the merits of the question I say nothing. While I lay bleeding on the ground, I called Mr. Hastings to me; I gave him my hand and desired him to consider, in what situation my death would leave him. I freely forgave him. What did I forgive him? I forgave him the insult he had offered me. I forgave him for being the author of my death, which I expected every moment. But did I tell him that, if I survived, I would renounce the whole plan and principle of my public life; that I would cease to oppose his measures; that I would desert the charges, which I had already brought against him, or not prosecute him by public impeachment, if I could? No, Sir, never; nor am I charged with it. If I had done so, I must have dishonoured myself for ever, without a motive, and without a compensation. I hope I have cleared myself from the suspicion of personal animosity to Mr. Hastings. At all events, the fear of that imputation shall not deter me from endeavouring to do justice to the present trust reposed in me. To execute such a trust with caution, reserve, and moderation, is in reality to betray it. If I am not convinced, I ought not to accuse. If I accuse with conviction, I ought to do it with vigour. I distrust my own strength, but I rely on that of my cause. It wants no assistance from the impression of the charges which have preceded it. Your opinion of Mr. Hastings's guilt, in other instances, ought to have no weight in the present question. Let it be tried and determined by its own intrinsic merits.

The general charge which I hope to make good this day against Mr. Hastings, is for a systematical, universal, and excessive abuse of his power over the people directly placed under his government, and their property; on principles absurd, contradictory, and flagitious; by means, arbitrary, tyrannical, and cruel; with effects, oppressive and afflictive to the natives, ruinous to the country, destructive to the revenues, injurious and fraudulent to the India Company, and for purposes of the most abandoned peculation and universal corruption. I have taken every possible care to collect and arrange the evidence, by which I mean to establish this general charge in all its points. If the proofs should appear to fail me in any particular, or if I should not instantly be able to produce them, I desire it to be understood, that I am at issue with any man who denies the truth of the facts, and that I hold myself bound to prove it. But in effect, Mr. Hastings's defence supplies all defects of proof. Excepting that he affirms generally that the revenues of Bengal, instead of having declined, had considerably increased under his administration, for the truth of which he refers the House to authentic documents on their table! the

of Directors, my immediate masters, with their Thanks; and I gratefully remember the Chairman's emphatical pause on the epithet which was joined to them, their 'unanimous thanks' for my services." Introduction to Mr. Hastings's Defence before the House of Commons, 10th March 1786.

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whole body of his defence is a justification, not a denial. But every justification, whether valid or not, supposes an admission of the facts. On the general subject of the property of the lands of Bengal, and the rights of the natives, I shall appeal with confidence to an hon. gentleman, (Mr. Boughton Rouse,) whose authority ought to have weight with the House. I am happy to see him placed in a situation, in which, if his advice be listened to, his knowledge, his experience, and above all things, his sound principles of Indian government, enable him to do the most solid and extensive good to the people of that country. In former times, we were both possessed of the same opinions on this subject. I request my honourable friend to favour me with his attention, and if I advance any thing which has not his concurrence, to mark it, and set me right. If not, I am sure of his support. I cannot open the subject in plainer terms than those with which the charge commences. It begins with stating to you the general situation of the people of Bengal, before they fell under our dominion; their rights of custom and possession, their property in the lands, and the tenure by which they held it under the Mogul Government. You ought to know the extent and nature of the rights that have been violated, before you can judge properly of the manifold wrongs that have been done. There is no appeal against oppression, to which a British House of Commons will refuse its attention; but, as you are in a special character the representatives of the property of your country; as the rights of property are those of which, next to personal liberty, you are most jealous, and which you are most determined to defend against invasion, the people of Bengal come this day before you, with a special claim to your protection. The charge affirms,* that the property of the lands of Bengal is, according to the laws and customs of the country, an inheritable property, and that it is, with few exceptions, vested in certain natives called Zemindars, or landholders, under whom other natives called Talookdars and Ryots, hold a certain subordinate property or occupancy in the lands; that the said natives are Hindoos, and that their estate or tenure in the soil is grounded on the possession of regular grants, a long series of family succession, and fair purchase; that it appears that Bengal had been under the dominion of the Mogul, and subject to a Mahomedan government for above 200 years; that, while the Mogul government was in its vigour, the property of the Zemindars was held sacred. The advocates of Mr. Hastings will not venture to dispute the truth of these assertions. They are taken from his own letters, and expressed in his own words. They who know Mr. Hastings, will not be much surprised at his having repeatedly acknowledged the rights he has violated, or at any other contradiction between his language and his conduct. He tells you himself "that, by entrusting the collections to the hereditary Zemindars, the people would be treated with more tenderness, the rents more improved, and cultivation more likely to be encouraged; that they have a perpetual interest in the country; that their inheritance cannot be removed; that they are the proprietors; that the lands are their estates and their inheritance." [General Letter, 3d Nov. 1772.] Yet these are the very people whom he instantly and universally ousted of all their possessions. He tells you himself that "when he was appointed to the government in April 1772, the lands had suffered unheard-of depopulation by the famine and mortality of 1769; that he had always heard the loss of inhabitants reckoned at a third, and in many places nearly one half of the whole, and he knew not by what means such a loss could be recruited in less than four or five years, and believed it impossible; that the collections of the two preceding years having been violently kept up to their former standard, had added to the distress of the country." [Vide his minute of the 22nd Feb. 1775.] Such were the laws and customs of Bengal, such were the rights, and character of the landholders, and such was the general state of the country, when Mr. Hastings was first appointed to the government. His own declarations indicate his duties. I desire no other measure of his actions. Instead of confirming the rights and quieting the minds of the people; instead of relieving the distresses; instead of lightening the burthens and abating the demands on a country which had lost a

* Vide Report from the Committee of Judicature, p. 40, 41, 42. Mr. Rouse's Evidence before the Committee of the House of Commons, Vol. 1, p. 37, 38, 39. Sixth Report Select Committee, p. 20, 21.—Vide general letter from Bengal, 3rd November, 1772. Sixth Report, p. 20.

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third of its inhabitants by famine,* and in which "the remaining two thirds had been obliged to pay for the lands now left without cultivators;" Instead of giving that security to private property, which, as he himself declared, "was the greatest encouragement to industry, on which the wealth of every state depended;" the first act of his government was to put up the lands of Bengal to a pretended public auction, and to invite all persons to make proposals for farming them. To carry this iniquitous scheme into execution, the famous Committee of Circuit was appointed by Mr. Hastings. They marched rapidly through the country, dispossessed every man in it of the rents, profits, and management of his estate for five years, from the first of the nobility and gentry, down to the lowest freeholder; and, under pretence of a public auction, allotted the lands to whomsoever they thought proper.† Let this House for a moment consider the enormity of such an act, and by whom it was perpetrated. The whole landed property of a great country, of a people distinguished by their patience and submission, in time of profound peace, and under a settled British Government, seized by a British governor, and, as if it had been forfeited by a universal rebellion, transferred to strangers. Of such an act of calm, systematical, deliberate violence, committed by a civilized power, and against so great a portion of mankind at once, I am perfectly sure there is not an example in the history of the world. The act itself carries, on the face of it, all the character of the most outrageous tyranny; but fraud and corruption were at the bottom of it. In order to recommend the measure to the East India Company, Mr. Hastings assured them that their revenues would receive an immediate improvement, with a progressive and accumulating increase. From a country, which had recently lost at least one third of its inhabitants, which still languished under the effects of a dreadful famine, and which was threatened, as he says, with a general decay of the revenue, unless immediate remedies were applied to prevent it,‡ Mr. Hastings had the courage to promise the Court of Directors an immediate and continued augmentation of revenue. He knew the persons to whom he addressed this promise, and how much merit it would have with them. I need not describe to you, what the consequences must have been, if he had strictly performed this barbarous engagement. But he had no such design; I acquit him of intending it. His sole view was to make a character by the promise, and a fortune by the breach of it. He deceived them by the first, and defrauded them by the second. It is in proof upon your table that, on closing the account of the five years settlement made by the Committee of Circuit, the collections, brought to account, fell short of the settlement to the enormous amount of two millions and a half sterling.* Where do you suppose it probable that remissions and balances, to such an amount, could be disposed of? In the first place, every man concerned in forming the settlement made an immoderate fortune by it. Then came their banyans, their servants, their agents, and an endless train of needy rapacious adventurers, in whose favour the proprietors were dispossessed of the management of their estates; and lastly a few zemindars, who, by out-bidding strangers, or by engaging to compound, were left in possession, in the character of farmers, and saved something for themselves out of the general scramble; that is, they obtained remissions on the committee's settlement, which they divided with their friends, and so far forth there was a saving to the country. The following fact will show how boldly these frauds were practised.† In October 1776, in less than a fortnight after colonel Monson's death, the Rajah of Nuddea obtained from Mr. Hastings and Mr. Barwell, a remission of 3,32,348 rupees or about 35,000*l.* I yielded to it from an opinion, which Mr. Hastings took no little pains to inculcate on my mind, that the country had been over-rated, and required relief. Notwithstanding my distrust of him, I was often the dupe of his artifices. The whole remission was a fraud. You will see by the minutes, that general Clavering understood that matter much better than I did. In the year following I had reason enough to be convinced of my error. General Clavering

* Vide Samuel Middleton's Letter of the 5th February 1775, Appendix to 6th Report, No. 14.

† Vide Evidence of Mr. Rouse, Select Committee, 6th Report, p. 21.

‡ Vide his Letter of 1st September, 1772.

* Vide page 33 of the 6th Report, Select Committee.

† Revenue Consultation, 8th Oct. 1776.

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had not been dead a week before the Rajah of Nuddea applied for another remission* of the same amount, which Mr. Hastings and Mr. Barwell immediately granted him, together with a reduction of his jumma or fixed rent for the future. Mr. Shore, who was then at Nuddea, had received strict orders to exact the Rajah's balance; but, while he was endeavouring to execute his orders, which had no other meaning but to spur the Rajah to compound, his son came down to Calcutta, staid there a month, caballing and negociating with Mr. Barwell, carried all his points, and obtained the recall of Mr. Shore. It is impossible to look at the proceedings on this subject, without seeing that the remission was sold to the Rajah. Many other transactions of the same nature appear on the records, particularly in the province of Burdwan, where the havock and peculation were incessant.† Mr. Hastings affirmed, that the balances on the committee's settlement arose from eventual causes, which could not be foreseen. It seems he could not foresee that, if he put up a zemindary to auction, if he suffered strangers to bid for it against the proprietor, and gave it to the person who undertook to farm it at the highest rate, the zemindary would necessarily fall into the hands of an adventurer, who neither knew nor cared what it was capable of producing. The worst that could happen to him would be to lose his farm, and pretend to be a bankrupt. Having bribed high for possession in the first instance, and for remission in the second, he was perfectly sure that no rigour would be used to him, and that his balances would never be exacted. Whereas the proprietor, who knew the real value of the lands, was of all others the least likely to obtain the farm. He knew that, if he bid more than he could pay, his estate was a pledge in the hands of government; and that he was liable to forfeit his inheritance as zemindar, if he failed in his engagements as farmer. Some of them, it is true, ran that risk, rather than suffer strangers to be introduced into the management of their estates. Others, on the same principle, submitted to act as under-farmers or agents to the new farmers, who knew nothing of the business. But in general they accepted of pensions from government, and waited for better times, in hopes of recovering their estates. From this system Mr. Hastings professed to expect great improvement of the couutry as well as increase of revenue. But this improvement, it seems,* had not in general taken place, having been chiefly obstructed by a circumstance, which could not be foreseen; viz. the farmers having engaged for a higher revenue than their districts could afford. He could not foresee, what he confesses was the event, that, if he put up the lands to auction, they would fall into the hands of desperate or knavish adventurers.† The House will judge, whether it was possible for him not to have foreseen a consequence so obvious, or what other effect he could have expected from such a measure. In another place, he admits the whole of my argument. He says, "it is true that the lands were almost all over-bid for, and many let to indigent and desperate adventurers, but this was unavoidable in such a mode."‡ Sir, I affirm that he not only foresaw the consequence, but intended it. Did he not foresee that the lands were very likely to be allotted out in large excessive farms to persons who might have interest with government? Did he not foresee that the lands were very likely to be distributed among the banyans and other servants of the European collectors of the revenues? Those effects, at least, he must have foreseen, since he pretended to lay down a fundamental regulation to prevent them. It is not my intention to enlarge on the proceedings of the other members of the government. The direct discovery of their peculation was not only sufficient to prove their guilt, but indications of an universal corruption. Mr. Barwell's confession of his embezzlements at Dacca, in which general Clavering observed to the Directors that "they would see an epitome of all the transactions of the Committee of Circuit," has been fully reported to the House.§ Mr. Grueber, who was a member of the same council,‖ declared "That he paid 12,000 rupees to the committee of

* Revenue Consultation, 5th and 6th Sept., 1777.

† Vide Revenue Consultation, 31st of Aug. 1779.

* Vide Mr. Hastings's and Mr. Barwell's minute, 22nd April, 1775. Appendix to 6th Report, No. 12.

† Revenue Consultation, 7th March. 1775.

‡ Ibid. 8th October, 1776.

§ 9th Report, Select Committee, p. 45, 46, 47, 48.

‖ 29th April 1775. Vide 9th Report, p. 47, and Appendix to ditto, No. 94.

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circuit for a small farm at Dacca, and reimbursed himself out of the Company's advances, directed to be issued for the provision of salt." For this discovery, Mr. Grueber was soon after turned out of the service.* "The farm of Sylhet was granted by the committee of circuit, the Company's advances to the farmers of Sylhet of 33,000 rupees for elephants, was received by one of the members of that committee. It has however since appeared, that the other ostensible farmers, or persons named in the committee's settlement, never existed; and that Mr. Thackeray, the Company's resident at Sylhet, was the real farmer under fictitious names." The Court of Directors were fully aware of the duplicity,† which had been practised by their servants, during the administration of Mr. Hastings, in the letting and holding of the lands in Bengal. On that head, the instances stated by them in their letters of 28th of Nov. 1777, and 30th of Jan. 1778, prove enough for my purpose; and indicate much more. The facts were so strong, and the Directors were so well satisfied, that flagrant corruption and great oppressions had been committed, (I use thier own words‡) that, in March 1778, they ordered a prosecution to be commenced against the persons who composed the committee of circuit, or their representatives. Whether they were in earnest or not, in giving that order, seems to me very uncertain, but I know that they delayed it long enough to be perfectly sure that it would never be carried into execution. In the first place, they took three years to consider of a case, which required an instant resolution. Their orders did not arrive till 1779. They knew that colonel Monson and general Clavering were dead, and that Mr. Hastings and Mr. Barwell were in possession of the government. The prosecution, if at all, must have been conducted by them, that is, in effect by the parties against themselves, and tried by sir Elijah Impey. In this state, the orders of the Court of Directors lay dormant till December 1783, when Mr. Hastings proposed, and carried it in council, that orders should be given for withdrawing the said prosecutions, declaring that he was clearly of opinion that there was no ground to maintain them, and that they would only be productive of expense to the Company, and unmerited vexation to the parties. He himself was a member of the committee, and included in the prosecution. The orders of the Company were positive;—what right had he to dispense with them? I expect to be told, that Mr. Hastings is not answerable for the misconduct of Mr. Barwell, or of the other members of the committee of circuit, or of the Company's servants employed in the collections. To that I say, he was the head of the government; that he formed the plan himself; that he was a member of the committee, and that he could not but know in what manner it was executed. The facts were gross and notorious: he connived at them as long as he could; and, when they came in proof before the council, he defended and protected the offenders to the utmost of his power. But I charge him directly and personally with participating in all the abuses which prevailed in every part of the administration. Notwithstanding the ostensible regulations, which he himself had laid down to the contrary, you will find that his own banyan, Cantoo Baboo, was the greatest farmer in the country.* No servant of any collector was to be suffered to hold a farm. No person whatever to be suffered to hold farms to a greater amount than one lack of rupees per annum. Nevertheless, Cantoo Baboo, the governor's banyan, a little time before we arrived in Bengal, was possessed of farms to the amount of 13 lacks and a half. [Revenue Consultation, 17th March 1775.] I need not repeat the particulars, as they are stated fully in the charge, with the opinion of the Court of Directors upon them.† The same man we also found in possession of the zemindary of Baharbund, which appears to have been part of the estate of the Ranee of Radshey. By what means he obtained it, I know not. My charge against Mr. Hastings is for suffering his banyan to possess himself of an estate, to which he had no title either by purchase or inheritance,‡ and for giving

* Letter from the Court of Directors, 28th November, 1777. Par. 38. 9th Report, App. No. 3, A.

† Letter from the Court of Directors, 30th Jan. 1778.

‡ 9th Report, p. 48.

* Vide Appendix to 9th Report, No. 99, 109.

† Vide their resolutions of the 5th April 1776. Appendix to 9th Report, No. 99.

‡ Revenue Consultation, 18th May 1785. G. G. Sing's Defence. Also Nundcomar's Charge, Appendix I to 11th Report.

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him a grant of it in perpetuity, contrary to the positive orders of the Court of Directors, at a nominal rent of 83,000 rupees, while Cantoo Baboo exacted four times that sum from the district,* and while the rest of the country was let in farms for short periods. What right had Mr. Hastings to make this distinction in favour of his servant? Why was the Governor's steward permitted to hold lands in farm? or, if that were allowable, why was he suffered to engross farms to thirteen times the amount fixed by Mr. Hastings's own regulation? General rules are worse than useless, if it be left to the discretion of any individual to set them aside when he thinks proper. The rule only serves to give value to the exception, and to forward the sale of the favour of government. Mr. Hastings says, that † he had no right to use compulsion or authority, nor could he with justice exclude Cantoo Baboo, because he was his servant, from a liberty allowed to all other persons in the country. He forgets that by his own regulation; "no peschar, banyan, or other servant, of whatever denomination, of the collector, or relation, or dependant of any such servant, should be allowed to farm lands, nor directly or indirectly to hold a concern in any farm, nor to be security for any farmer;" and, if he had no right to enforce this regulation against his own servant, for what purpose did he make it?‡ At all events, he might have dismissed Cantoo Baboo from his service. But it seems Cantoo Baboo was a man of property; his security was good, and therefore he was very fit to be trusted. From these premises you would be led to conclude, that he had really performed his engagements with government. What his balances, on the whole of his farms, might be, I cannot ascertain. But it appears by an account on the table, (dated 29th March, 1787,) that on two of the farms only, viz. Bissenpoor and Pacheet, his balance, in the two first years of the five, amounted to two lacks and a half, or 25,000*l.*, which was never exacted. Instead of being held to his engagements, he was permitted to relinquish these two farms at the end of the second year, that is, when he had reduced them to ruin, and could make nothing more of them. This heavy, circumstantial charge is treated very cavalierly, and answered very briefly indeed by Mr. Hastings. With respect to the committee of circuit, the monstrous balances on their settlement, and the various frauds and embezzlements proved against them, he affirms that the propriety of the measure requires no proof, and there he leaves it. As to his banyan, he contents himself with saying, "The subject is now grown obsolete; I affirm that I had no interest whatever in the transactions, and I really believe Cantoo Baboo lost very considerably by his farms." [Vide his Defence, page 57.] The direct and palpable proof of collusion between Mr. Hastings and his banyan, or in what manner they divided the profits on these monstrous adventures, is not to be expected. But I do affirm that the concurrence of so many criminal acts, and of so many suspicious circumstances, leads to a conclusion, which no human mind can avoid or resist, that Mr. Hastings did not violate so many duties and break through so many restraints for the sole purpose of enriching his banyan; but that he himself was the principal in all these transactions. I shall have others to lay before you, in which the evidence is more direct. As to the general havoc that was made of the landed property of Bengal, I shall conclude this part of my subject with a quotation from a petition addressed to Mr. Hastings himself in December 1777, by a Cosinaut Baboo, a person of great wealth in Calcutta, and who had served in stations similar to that of Cantoo Baboo. "Neither am I indeed at all desirous of acquiring any person's zemindary in this country; for if that had been my ambition, I might surely, when by the favour of the English gentlemen I was (as it is well known) placed at the head of affairs, have possessed myself of the zemindaries and talooks of many people, in like manner as several Calcutta mutsuddies have done, as is well known to you." [Revenue Consultation, 16th Dec. 1777.] I have shown you, Sir, that the injustice done to the zemindars, by treating them, in fact, as if they had no manner of property in their estates, stands in the grossest contradiction to many recorded declarations of Mr. Hastings, in which their rights are fully described, and expressly acknowledged. In the year 1772, he tells you, "that the zemindars have a perpetual interest in the country; that their inheritance cannot be removed; that they are the proprietors; that the lands are

* Vide Minutes of Evidence, p. 338.
† Minute of 23rd March, 1775.
‡ Vide Letter of Directors of 31st January, 1776, paragraph 26.

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their estate and their inheritance; that their rights and privileges are grounded on the possession of regular grants, a long series of family succession, and fair purchase." How so much truth should have escaped him, or why he began with laying down principles, to which it is impossible to reconcile his actions, is more than I shall attempt to account for. His authority, at all events, is good against himself. Since that time a doctrine, better suited to the practice, has been invented and propagated with infinite industry and perseverance, not indeed directly and avowedly by himself, but by persons who evidently meant to serve him, and who in all probability have been well paid for their labour. After all that he said of the rights of the zemindars, he could not directly affirm that they had no sort of property in the lands, that they were nothing but officers of government and collectors of the revenue. But others have said it for him; and the doctrine, I fear, in spite of its manifest falsehood and absurdity, begins to prevail, as every speculative opinion will do, that furnishes a pretence for profitable injustice. The idea of converting zemindars into collectors was never thought of, until after Mr. Hastings had dispossessed them. It stands in opposition to every thing we know of their situation, to facts, to authority, and to reason. They existed before the Mahomedan conquest of Bengal, consequently could not have been originally the officers of that government. The right, property, and succession to the zemindaries are stated in the Shaster, that is, in the code of the Hindoo religion, the origin of which is so remote, that it cannot be traced by history or tradition. That circumstance alone establishes the antiquity of the zemindars. If a zemindary was nothing but an office, how is it to be accounted for, that the Mahomedan Conqueror disposed of these offices not to his own people, but universally to the Hindoos? that is, to the natives of the conquered country, insomuch that, when he wanted to reward or provide for a Mahomedan, he gave him a jaghire, or pension, or assignment on a zemindary, for the amount of which the zemindar had credit in the account of his revenue. The word Zemindar is Persian, and literally signifies a landholder. If a zemindar was nothing but a collector, why did not the Mogul government, when they introduced the Persian language into the transaction of business, describe him by some Persian word, equivalent to that of collector? If before the Mogul conquest the Hindoos had no property in the lands, or if the conqueror was resolved to annihilate all such property, why did he give them a title which, in his own language, implied a tenure, and amounted to the acknowledgment of a right? If a zemindary was nothing but an office, how came it to be an inheritance? How came it to descend of course to the son? He tells you that, in India, there is no such custom as disinheritance. In what? in the offices held by Hindoos under a Mahomedan government. But how came this office liable to be sold for the payment of debts due by the zemindar to government, or to individuals? Mr. Hastings (22nd April, 1775,) says "The principal argument in favour of the zemindars, is the security arising from a power of selling their lands." He lays it down as "an invariable rule that, if any zemindar fails in his engagements, his zemindary, or such part of it as may be necessary to pay the deficiency, be publicly sold." If it was an office, how was it possible that, both by the Mahomedan and Gentoo laws, the inheritance should be divided among the sons in equal proportions? Landed property may be divided in that manner; and that it was so divided in Bengal, is certain. The multitude of petty zemindars and talookdars in Bengal and Bahar shows plainly that it must have been so. But the endless division of an office is absurd and incredible, and never could have entered in the scheme of any rational government. In the single district of Dacca there would be at least 400 collectors of the land-tax, and in the three provinces probably not less than 40 or 50 thousand. Of these, the far greater number assist in cultivating the soil with their own hands. The poorer sort must do it entirely. This is the labour of a proprietor, and never yet was performed by the collector of a tax. The excessive inequality in the extent and value of the different zemindaries, is another strong presumptive proof, that the zemindars must have been proprietors of the land, not collectors of the land-tax. Some of them pay from one hundred thousand to three or four hundred thousand pounds a year; while there are multitudes of others, whose annual rent (which, by the new doctrine, you must call their collection) runs from ten or twenty pounds to a hundred. Landed property will either gradually accumulate into the hands of a

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few, or it may be divided and subdivided among a multitude. But that any government, and least of all an arbitrary government (whose sole object is its own convenience and the dispatch of its business) would voluntarily distribute the collection of its revenues in this manner, without any rule or proportion, without regard to convenience or security, is not to be believed. I shall offer only one fact more to your consideration, and that, I imagine, will be allowed to be decisive. On the failure of male heirs, the zemindary descends to the daughters. There are many female zemindars in Bengal. Now, Sir, if a zemindary be an office, if a zemindar be a collector of the revenue, a tax-gatherer, how is this descent to women to be accounted for? In no country whatever are women so employed. In India, they are utterly incapable of it. They cannot act for themselves; they cannot even be seen; they are not free agents in any thing:—and yet they are officers of government; they are collectors of the land-tax; and it is not an event beyond the limits of possibility, that the whole collection of the public revenues of Bengal might devolve to female management! All these facts, and every thing we know of the situation of the zemindars, constitute or belong to the description of a property, and are utterly incompatible with the idea of an office. Let us now see, how the authorities stand. I do not mean to insist at present on the opinions of the Company's servants, though I think they are of weight: they all concur in acknowledging the landed property of the zemindars, and that it was held sacred by the Mogul government. In the year 1773, the president and council of Fort William, in order to ascertain the right of succession to the zemindaries, stated the question very distinctly to the chief native officers both Hindoo and Mahomedan of the Mogul government, and to the expounders of the laws of the Shaster and of the Coran. The questions and answers are stated in the reports of the Select Committee. All the answers with one voice declare that the lands belong to the zemindar, that the succession belongs to his children, and that, as long as there are any heirs male or female, the zemindary will not devolve to the government. Mahomed Reza Cawn, the minister of the Mogul government, a person, whose office and religion were not likely to prejudice him in favour of any rights of the Hindoos, expressly affirms "That, according to the law of the Coran, a son has a right to succeed his father in a zemindary, independently of any sunnud from the king, nor is it in the king's power to dispose of it as he pleases;—his right only extends to the receiving of its established revenue." These arguments and authorities form a perfect justification of that opinion in favour of the zemindars, which Mr. Hastings has publicly and uniformly professed from the commencement to the conclusion of his government. No terms can be more precise than those in which he has repeatedly declared that the lands of Bengal are the right, the property, and the inheritance of the zemindars. But the committee will hear with astonishment that these are not the opinions, which he brought with him from India. Since his return to England, he has attacked them, in a formal publication, not only as if they were false, but as if they had never been his own. He says, "The public in England have, of late years, adopted very high ideas of the rights of zemindars in Hindostan; and the prevailing prejudice has considered every occasional dispossession of a zemindar from the management of his estate, as an act of oppression." [Review, p. 126.] To this I shall only say, that the public received their ideas from himself, and that the prejudice he objects to is a necessary conclusion from his own premises. He says, "I mean not here to enter into any discussion of their rights, or to distinguish between right, fact, and form, as applied to their situation." The discussion, from him, would have been particularly proper, if he had any new lights to offer on a subject of so much importance; and without a discussion, what right had he to decide? He says, "our government, on grounds, which more minute scrutiny may perhaps find at variance with facts, has admitted the opinion of their rightful proprietorship of the lands." By this insidious language, he endeavours to weaken the impression of his former declarations, without directly contradicting them. The right, which at first was unquestionable and solemnly acknowledged by our Government, that is by himself, is now reduced to a speculative opinion; and that opinion, if you examine it, if you institute a minute scrutiny into the grounds of it, may perhaps turn out to be groundless! He says, "I do not mean to contest their right of inheritance to the lands, whilst I assert the right of Government to the produce thereof." I hope the committee will take notice of

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this extraordinary distinction. He allows the perpetual property to be vested in the zemindars, but he takes care they shall gain nothing by that admission. The perpetual use and profit, as he asserts, belongs to the Sovereign. Now, I should be glad to know, what sort of property is that, which gives no claim to the produce, and the usufruct of which, in perpetuity, is the right of another? What is property, distinct from the use and enjoyment of it? Yet these ideas, according to Mr. Hastings, are perfectly compatible. In my opinion, his doctrine would have been not only less absurd, but infinitely less wicked, if he had flatly denied the inheritance of the zemindars. He not only takes away their property, but their liberty. He attaches them to the soil by what he calls their inheritance, for no purpose but to bind them to cultivate and improve it for the use of another. They belong to the lands, and are enslaved by their inheritance. The book, from which these quotations are taken, was written, as he says, during his passage from India to England, and printed and circulated by him in January 1786. How long he remembered the contents of it is uncertain. In his defence, delivered in at the bar of this House on the 10th of May following, he suddenly reverts to his original opinions, and re-asserts the right, the property, and the inheritance of the zemindars, in terms that not only confirm, but surpass all his former declarations in their favour. Against one of the articles of charge, he thought it necessary in his defence to affirm, that the father of Cheit Sing was not and could not have been zemindar of Benares. Why? Because "had Bulwant Sing been real and hereditary zemindar, the succession would have gone to his son of course, there being in India no such custom as disinheritance. This circumstance proves also, that Bulwant Sing was not the zemindar; for, in that case, it must have devolved to him by inheritance. As zemindar, his son must have succeeded. It would have been a clear, entailed, hereditary estate." After a declaration of right so formal and explicit, after a description of property so complete and unqualified, will you ever allow the same person to tell you, as Mr. Hastings has presumed to do in the very same paper, that the state and tenure of a zemindar are a mean and depraved state and tenure by the constitution of that country? Will you allow him to justify any of his actions, by affirming that the zemindars were nothing but collectors of the land-tax or officers of government; that they had no estate, no tenure in the land themselves; will you submit to hear it asserted by the same man, and almost in the same breath, that a zemindary is a clear, entailed, hereditary estate—yet that it conveys no claim to the produce, no right to the management, no security against arbitrary dispossession, or unlimited demand? Yet these are propositions, which he has and must have recourse to, or the tyranny with which I charge him must be left without the colour of a justification, without the shadow of an excuse.

No man is readier in laying down general principles than Mr. Hastings, or has an easier way of getting rid of them. Let the subject be what it may, he has a maxim prepared for it. If you expect him to abide by his principles, he tells you, "that general principles in theory often require deviation in practice." Relying on this exemption, he takes no care to accommodate his actions to his language, and seldom utters a word of truth, reason, or justice, without pronouncing his own condemnation. The fact is, he has no fixed rule of action; his mind is arbitrary, and will not submit to be restrained even by principles of his own. Every thing he says and does is left open to fluctuation, not so much from ignorance and caprice, as from a determination to act without any system whatever. This depraved policy is perfectly adapted to the use he makes of it. Being bound by no principles, he changes his measures as often as he pleases, and, as every innovation is a new source of fraud and means of oppression, it is no wonder that innovations, under such a government, especially in the administration of the revenues, should be so frequent as they have been. He knows, for example, that an inquisition into titles is a certain method of laying a whole country under contribution, and forcing every man of property in it to compound for his estate. For that reason he never would give the people of Bengal a *quietus*. He knows too that, if once there was a fixed and unalterable settlement of the revenues, there must be an end of peculation; whereas every new settlement is in effect a new ransom of the country. By affirming that the zemindars have no property in the produce of their estates, he entitles himself to let the lands in farm to strangers,

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that is, to persons, who pay directly for the farms, or agree to share their profits with him. These farms, you will find, are always supposed to have been excessively over-rated at the beginning of the year, in order to establish the necessity of a proportionate remission at the end of it. Through all his contradictions and inconsistencies, he never loses sight of his object—the acquisition of power for the purpose of profit. In September 1772, he told the Court of Directors plainly [Appendix to 5th Report, Select Committee, No. 3.] "that, when he took charge of the government, the affairs of the Company stood on a footing, which could neither last as it was, nor could be maintained on the rigid principles of private justice." The pretended necessity of doing wrong, is in effect a claim to arbitrary power. In his own declaration you see the very basis of his government, the foundation of all his measures, and the only principle in theory, which he has never abandoned in practice. I now expect to be asked why, if this general character of Mr. Hastings's government were true, sir John Clavering, Colonel Monson, and I, while we were in possession of a majority in council, did not obtain more evidence than we did of direct, specific corruption. To that question I answer, that the remissions and balances on the five years settlement, amounting to two millions and a half sterling, show plainly enough, from what source the notorious fortunes acquired by individuals must have been derived. It is not my intention to name any man, who has not already been broght into the view of Parliament by the reports of your committees. On that point your own knowledge and observation are sufficient. But in fact we proved a great deal; we produced the strongest presumptive evidence of much more, and undoubtedly should have established all our charges against Mr. Hastings, if that power, whose support we had the best right to expect, if that power which was created expressly to protect the natives of India against oppression, had not taken part with their oppressors. We were in a course of inquiry, which must have succeeded; every day produced a new discovery. The whole system of Indian peculation would very soon have been laid open. Mr. Hastings knew his danger, and that there was but one way of preventing it. Nothing could have saved him, but the death of Nundcomar. I shall offer no remarks on the conduct of the Supreme Court of Judicature in that transaction. The business is in abler hands, (Sir Gilbert Elliot,) and must be the subject of a separate proceeding. After that event, how could we expect that any native of India would stand forward to accuse an European; or how could we, in common justice or humanity, demand the evidence of men, who give it at the hazard of their lives, and whom we were utterly unable to protect? Unremitting persecution has been the lot of every person, of every degree, who had the courage to discover fraud, or to complain of injustice. Among these, two women of the first rank in the country have been marked out by Mr. Hastings for special vengeance; I mean the Ranees of Radshi and Burdwan. The rajahs of these provinces were once on a level with princes. Their estates were equal to principalities. Before our arrival in Bengal, their property had been plundered on all sides, as well by persons in office under the government, as by their own faithless servants acting in conjunction with Europeans. These unfortunate women thought they might complain with safety to the new government. A very full state of the hardships they had suffered, and of the sums of money of which they had been defrauded, is entered in the Company's records. We gave them relief, and promised them protection. But it would have been happy for them, if they had submitted to their former injuries in silence. To accuse or to complain, is an offence never forgiven in India. As soon as power reverted to Mr. Hastings, they were again dispossessed, and their lands given to farmers. Their own servants, dismissed for former frauds and embezzlements, were forced back by Mr. Hastings into the management of their estates, and even into the interior government of their houses and families, with unbounded authority over their late mistresses. Nundolol, a dismissed servant of the Ranee of Radshi, was sent as Aumeen into that district in November 1776, and Mr. Hastings, of his own authority, and without consulting the Commander in Chief, ordered fifty sepoys to attend him. You may judge for what purpose. To this man, though repeatedly in default to a very great amount, the whole district has been repeatedly let in farm. Even before sir John Clavering's death, the Ranee of Burdwan was treated with the utmost indignity and cruelty by Mr. Hastings. The management of the

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zemindary was sold to strangers, and the basest villains forced into the direction of her house and family. Since I left India, she has been driven by incessant persecution to fly from Burdwan, and to take refuge at the Danish settlement at Serampore, from whence she has been removed by force, and put under confinement. With such examples before their eyes, Mr. Hastings had nothing to fear from the evidence of the natives. As to the Company's servants, we had no reason to expect their assistance. They who were best able to prove the guilt of Mr. Hastings, were most likely to be implicated in it themselves. Others naturally would not be very willing to detect the corruptions of a system, in which they expected to participate in their turn. The younger part of the service were not in the secret; and who is there, even among the most honourable and the most innocent, who does not dread the invidious name of an informer? I am far from meaning to throw out a general reflection against the Company's servants in India. It would be ungenerous in any man; but in me it would be unjust. I know the merit and honour of many individuals in that service. If any of them swerve from their duty, I charge it upon the principle of the Company's government, enforced by the example of their superiors, who have no excuse. It was our resolution not only to set them a better example, but to correct the system itself; to establish a regular succession to those offices of trust and authority; to annex adequate emoluments openly to those offices, and to enable every man to return, in a reasonable time, with a reasonable fortune, to his native country. The Company's government was calculated, I might almost say it was intended, to corrupt the integrity of all their servants, and to permit, if not to institute a universal system of peculation. The avowed emoluments of the principal stations in the service hardly afforded a subsistence, while the means of clandestine profit were unlimited. Much may be said for men who in such circumstances yield to great temptations. The Company's servants in general have no occasion to make common cause with Mr. Hastings. For them there is an equitable defence; for him there is none. His salary and appointments were equal to his station. If he had meant well to his fellow servants, he would have provided honourably and openly for every rank in the service, and banished the necessity of concealment and deceit. The interests of India I hope are now in better hands. If you seriously mean to do right yourselves, and to prevent others from doing wrong; if you seriously intend to establish a good government in that country, two things are indispensable. The first is to give the natives a *quietus*, by fixing the revenue, that is, your demand on their labour, once for all and for ever. As long as you leave it to your representatives to increase or to lower the revenue, you will always be at their mercy. They will do as they have done. They will invariably heighten the demand for the purpose of selling the abatement. The second is, to give liberal not exorbitant allowances to every man in office according to his rank and station, and proportioned to the trust reposed in him. With these two conditions, a general reformation of abuses may be effected. Without them, I will venture to affirm, that all regulations, penalties, and prohibitions will be useless.

I proceed now, Sir, to the second part of the charge, namely, "for harassing and afflicting the inhabitants of the provinces with perpetual changes in the system and execution of the government placed over them, and with continued innovations and exactions against the rights of the said inhabitants." Sir, it requires no argument or authority, to prove that perpetual innovations are incompatible with any rational idea of good government. But, on this subject, the opinion of Mr. Hastings is material. He says he is well "aware of the expense and inconvenience which ever attend innovations of all kinds on their first institution. That innovations are always attended with difficulties and inconveniences, and innovations in the revenue with a suspension of the collections; and that the continual variations in the mode of collecting the revenue, and the continual usurpation on the rights of the people, had fixed in the minds of the ryots a rooted distrust of the ordinances of government." [3d. Nov. 1772. 24th Oct. 1774. 22d April 1775.] The committee will be pleased to compare the professed opinion of Mr. Hastings with his actions. When he took possession of the government in 1772, he found the collection of the revenues under a Naib Dewan, or native collector. That office he immediately abolished. He then appointed a committee of circuit to let the country in farm for five years. His next step was to

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station a company's servant in each district, with the title of collector. Soon after this, he abolished the board of revenue established at Muxadavad; transferred their powers and duties to the president and council; and brought down the khalsa to Calcutta. All these operations took place in the year 1772. In the year following he abolished the office of collector, and appointed the provincial councils, each of them with a native dewan, who was a creature of his own. In Nov. 1776, the moment he got possession of power by the death of Colonel Monson, * he sent out an army of aumeens or inquisitors all over the country, † for the pretended purpose of obtaining accurate states of the real value of the lands. In February 1781, within two months after I had quitted Bengal, he abolished the provincial councils,‡ and appointed a committee of four of the Company's servants at Calcutta, to take charge of the whole business of the settlement, collection, and management of the revenues. On the three last of these operations I shall have occasion to enlarge. As to the committee of circuit, enough has been said. On the rest I shall only observe that changes in the form of administering the revenues, besides harassing the people, who have so many new masters to compound with, are constantly attended with loss to government, especially when the lands are farmed to strangers. When these persons expect a change of hands, they pay nothing more to the present collector, and take their chance with his successor. But they never fail to rack the zemindar and the ryot to the utmost of their power. With respect to the provincial councils, Mr. Hastings does not deny any one of the facts asserted in the charge. He created the system; he established and confirmed it; he repeatedly recommended it, in the strongest terms, to the Governor-general and Council, to the Court of Directors, and even to Parliament, as an institution which ought to be perpetuated by an act of the Legislature; and then he abolished it. By the original plan the whole country was distributed into six grand divisions, each of them to be under a Council of Revenue, consisting of five members. To make way for this plan, he abolished the collectors; yet * the first job he did, as soon as the councils were established, was to detach a separate collectorship, of very great value, from the districts† of Patna and Morshedabad for the use of Mr. James Barton, a near relation of Mr. Barwell.‡ This was one of the articles of their treaty of alliance. In the same manner, as soon as the death of colonel Monson put it into his power, every man whose fortune he wished to make, had a collectorship separated for him out of one or other of the general districts, with an additional establishment.‖ Others were appointed supernumerary members of the councils; so that, with one hand, he hardly left any thing to be done by the councils, while he increased their numbers, and the Company's expence, with the other. My opinion, on these shameful proceedings, appears on the records.§ I objected, in vain, to the creation of so many new offices without use or necessity, and told Mr. Hastings that I looked upon all these appointments as so many pensions given to individuals, at the Company's expence, and without a possibility of doing the Company any service. You will find, by the examination of Mr. Harwood, Mr. Higginson, and Mr. Law, who have been all chiefs of councils, that, on all these operations, they thought exactly as I do; the evidence of Mr. Law particularly deserves your attention. With one voice they all declare, that the acts I allude to were done for no public use or purpose whatever, but solely to serve individuals. Mr. Hastings himself not only did not deny the charge, but, with a boldness, peculiar to him, avowed the profligate principles of his conduct. His words are, "The present state of this government is such as requires temporary expedients and the union of private interests with the public." [Revenue Consultation, 19th Jan. 1779.] This singular declaration requires no comment. You have it from his own authority, that his government

* Colonel Monson died 25th September 1776.

† Revenue Department, 1st Nov. 1776. Vide Appendix to 6th Report, Select Committee, No. 15.

‡ 6th Report, p. 4.

* Vide Minutes of Evidence 23d March 1787, p. 334.

† Boglipore and Monheer. Vide Minute of Clavering, Monson, and Francis, 21st March 1776.

‡ Minutes of Evidence, page 323.

‖ Ditto, page 334, 335, 336, 337.

§ Revenue Consultation, 20th Oct. 1778.

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was a system of expedients and corruption. I shall examine his pretended reasons for abolishing the provincial councils, when I come to consider the appointment of the committee of revenue, which he created in the place of them. In April 1775, Mr. Hastings declared under his hand, that the ascertaining of the value of the several districts had been sufficiently accomplished. [6th Report, App. No. 12.] We had then been ten years in possession of the Dewanny, and certainly by that time ought to have known what the country was capable of producing on any reasonable principle of taxation. But, no sooner was colonel Monson dead, than Mr. Hastings set up a new inquisition into the property of the people. To give a colour to this measure, he pretended that, in order to form a new settlement of the provinces, "it would be necessary to be previously furnished with accurate states of the value of the lands." [Revenue Consultation, 1st Nov. 1776: 6th Report, App. No. 15.] To obtain this information, he sent an army of inquisitors, with the title of Aumeens, and amounting to many hundreds, all over the country, though he himself had on various occasions declared, that "he did not like the deputation of Aumeens; that they were not to be trusted, and that he was confident that no dependance could be put in that mode of inquiry." [Vide general Clavering's letter of 9th Jan. 1777. App. to 6th Report, No. 16.] These men nevertheless, collected from the dregs of Calcutta, and instructed by Gunga Govind Sing their chief, a person of whom I shall have much to say, were armed with unlimited power to force every landholder in the country, by imprisonment and corporal punishment, to deliver up the titles of his estate and all the accounts of his receipts and profits. [App. to 11th Report, O.] The provincial councils, by whom such a business, if necessary, ought to have been conducted, were superseded and set aside, and an officer created on purpose to manage it, who were to issue all their orders in the name of Mr. Hastings, to whose immediate charge the control of it was committed. [Revenue Consultation, 1st Nov. 1776: 6th Report, App. No. 15.] By this bold measure, voted by two members of the council, and carried by the casting voice of one of them, against the vote and protest of the other two, general Clavering and I were, in effect, dispossessed of the powers vested in us by Parliament. The ordering and management of the territorial revenues was taken out of the hands of the Governor-general and Council, and transferred to Mr. Hastings alone by his own vote. General Clavering and I opposed it firmly, and even refused to sign the orders. I shall not go farther into this transaction at present, because there is already a very minute discussion of it reported to you by the select committee; and the minutes, which passed between Mr. Hastings and me upon this subject, have been published. The opinion of the Court of Directors will be sufficient to give you a distinct, general idea of the nature of the measure, as well as what they thought of it. [General letter, 4th July 1777, par. 38, 6th Report, App. No. 11.] After expressing their apprehensions of the consequence of a sudden transition from one mode to another, they declare that "the conduct of the majority of the council, (Mr. Hastings and Mr. Barwell,) on the occasion, has been such as must have their utter disapprobation." They reprobate the idea of delegating separate powers to Mr. Hastings. They hold it to be illegal: they prohibit all such separate control in future, and they condemn the appointment of Gunga Govind Sing, "whose dismission from the Calcutta committee had rendered him an improper person to transact affairs of such moment to the Company." In regard to the idea of deputing natives on occasional investigations, they say, "we are really astonished at such a proposition;" and they conclude with the following declaration. [General letter 30th January 1778, par. 61.] "As the whole of the measure is equally repugnant to our ideas of humanity and sound policy, we have only to add that, if one part of the Governor-general's plans be more exceptionable than the rest, it is that order, which enjoins the provincial chiefs and councils, on any complaint made by any aumeen, to support and enforce the authority of the said aumeen, by compelling the attendance of such native revenue officers, as the aumeen may require, and by arresting and punishing those who should dare to oppose or disobey what is styled, by the Governor-general and Mr. Barwell, the orders of Government in those instances." These letters are signed by Mr. Smith and Mr. Devaynes, members of this House, as well as leading persons in the direction.—The provincial councils were

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formed by Mr. Hastings in November 1773. [Appendix to 6th Report, No. 11.] In April 1775, he declared that, "with respect to the mode of managing the revenue and the administration of justice, none occurred to him so good as the system, which was already established, of provincial councils." In the year following he repeatedly and urgently advised the Court of Directors to obtain the sanction of Parliament for the confirmation of a plan, in which the establishment of the provincial councils was specially provided for and confirmed. You have seen to what purposes he applied the institution, and what use he made of it, while he suffered it to subsist. But these were petty objects in comparison with the great scheme which he had in contemplation, and which he waited only for my departure to carry into execution. I admit, what Mr. Hastings never would admit, that the plan of the provincial councils was liable to material objections. But it had this good effect at least, that, as long as the management of the collections was in their hands, it was very difficult for the government at Calcutta to sell the country by wholesale. No secret bargain could take effect, while those councils had a local establishment and any degree of power in the districts. How to get rid of them was the difficulty, or rather it would have been a difficulty to any man, but Mr. Hastings. He says, "that the institution was merely temporary, and preparatory only to that system which he adopted in 1781." [Defence, p. 57.] In 1773 he recalled the collectors, whom he had appointed but the year before, to make way for the provincial councils; that is, he substituted one temporary plan in the place of another. This second was declaredly formed for the purpose of introducing a third: and this last was to be introduced by an "easy and gradual change, so as to avoid the effects of too sudden an innovation." [6th Report, p. 4.] What his original intention might be, with respect to the continuance of the councils, I know not. It is difficult to conceive, how any reasonable man could form so extensive an arrangement, and create so many establishments for the conduct of a business, in which he confesses that innovations are particularly inconvenient, with no other view but to destroy them; or, in what manner he meant to dispose of such a number of the Company's servants, when he took away their employments. He says, the councils "were intended to be gradually withdrawn, as experience might render them no longer necessary." — [Letter 5th of May, 1781.] The fact is, that he suffered them to subsist above seven years, and, in that time, repeatedly recommended the system to be made perpetual by law; and that then he abolished them, not gradually, but at once—by a sudden, single act of power. But, "why they were permitted to remain during so long a course as seven years, in contradiction of their professed institution," he says, "it is unnecessary to mention!" It is certainly true, that existence must precede dissolution. He who builds, of course has something to pull down. But, in what rational sense the establishment of these offices could be a preparatory step to destroying them, is a question, which I must abandon, as he has done, without attempting to explain it. He was so eager to accomplish his purpose, that he would not suffer the councils to finish the collections and close the accounts of the current year, which ended in April, but obliged them to relinquish their charge in the beginning of February. To this absurd precipitation, I attribute the balances on the settlement of that year. A change of hands, at such a period, must have been made on purpose to create confusion, and to shelter the embezzlements of the new farmers. Such violent proceedings are incompatible with the idea of a gradual introduction of a new system. His whole conduct, on the face of it, is nothing but a series of contradictions. Let us see how he accounts for it. He says in his Defence, "I am free to acknowledge that, after the establishment of the supreme council, of which I had no idea in Nov. 1773, I did deliver it as my opinion upon record, and in an address to the Court of Directors, that the system of the provincial councils was the best that could have been adopted." From these words he leads you to conclude, though he has not directly affirmed it, that it was the establishment of the Governor-general and council in October 1774, that determined him to adhere to the provincial councils; but he has stated no reason why our appointment should have had that effect. The two institutions had no sort of relation to each other. Each of them was separately created, the former in England, the latter in Bengal, without even a knowledge of the existence of the other. But it seems, "at a subsequent period, upon

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the factions that divided each council and the declining state of the revenne, he altered his opinion. The inability of the provincial councils, from the decline of the revenues, was a sufficient reason for abolishing them." I reserve what I have to say on the state of the revenues, for a separate discussion, in which I mean to show, that they were far from being improved by abolishing the provincial councils. At the end of seven years, he discovers that these councils were divided into factions, and that they were unable to collect the revenues. Sir, I affirm, as matter of fact, that there were no factions in the councils, and that, under his despotic government, there could be none, unless they were fomented by himself. A factious spirit may be imputed to persons, but not to a system. If it existed among the members of those councils, he had full, he had absolute power to correct it, by removing the offenders. According to Mr. Hastings, the members of the councils were factious and incapable. Yet these gentlemen were the most experienced servants the Company had in the revenue department. While I was in Bengal, he never expressed an opinion to their disadvantage; and, even when he dismissed them, he told the Directors, [5th May 1781] that the "justice due to their servants, who were removed for no fault of theirs, but for the public convenience, had induced him to continue their allowances, until other offices could be provided for them." So he destroys a general institution, which he assures you was the best that could ce adopted, because the members of it, who had committed no fault, were factious and incapable. If it really deserved that sentence, and if all that he says now were literally true, if the plan of the provincial councils, which in 1775 was the best that could have been adopted, was so bad in 1781 that no change of hands could correct it, I should be glad to know, how such a system could be a preparatory step to a good one? But, while the councils subsisted, did he accuse them of any offence? Never. Did he charge them with inability? Never. At the moment of destroying them, he says, they had committed no fault. Five years after sentence and execution, he tells you, for the first time, that they were factious and incapable. Did he give them pensions, because they had been factious? Did he create new offices for them, because they were incapable?

I come now to the Committee of Revenue; that perfect, permanent plan, which Mr. Hastings had in contemplation in 1773, and which, it seems, he never lost sight of, though he suffered it to lie dormant till 1781. In less than a month after I left Bengal, he declared his resolution to intrust four of the Company's servants, stationed at Calcutta, with the charge and management of the public revenues, "and to invest them, (6th Report, p. 4.) "in the fullest manner, with all the powers and authority, which the Governor-general and Council possessed in that department, and which they should not reserve exclusively to themselves." In fact they reserved none. All the members of the provincial councils were recalled, except the chiefs, and except the collectors of the separate districts, both of whom, though left in the temporary charge of their respective stations, were also to be recalled. On the professed principles of this plan (Vide letter of 5th May, 1781.) the whole business of the revenue department was to be executed by the new committee. The office of superintendant of the khalsa records was abolished. That of the roy-royan was reduced to a sinecure; and the canongoes were reinstated in all their functions and powers. By the regulating act of 1773, the ordering, management, and government of all the territorial revenues were vested in the Governor-general and Council, without any power of transferring that trust and duty to any other person. They are delegates themselves, and cannot delegate. If they can do it in one department, why not in every other? Why not transfer the civil government to a committee? Why not command the army by a committee? The committee of revenue was not merely a ministerial or executive office, as he now endeavours to represent it. [Defence, p. 77.] He could not have intended it to be so, without contradicting an opinion, deliberately urged and insisted on by himself on a former occasion: [28th July 1772.] that "there must be a controlling power in this department; that it cannot be partially delegated; but, in whatever hands it is lodged, it must be absolute and independent." The new committee were accordingly invested, in the fullest manner, with all the powers and authority of government; at least, he tells you so. On the face of the plan, there is no exception or reserve of any power whatever in the Governor-general and Council, unless the committee think fit to

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apply to them for order, on what they themselves may deem extraordinary occurrences. To judge of the case and of the necessity of reporting it, is left wholly to their own discretion. It is stated in the charge, that the reasons assigned by Mr. Hastings for instituting this committee, are incompatible with those which he professed when he abolished the subordinate council of revenue at Muxadavad, in 1773. His opinion of the danger and impropiety of trusting the control of the revenue department out of the immediate charge of the Governor and Council, before the Act of 1773 had made all such delegation illegal, is supported by arguments, which I defy him to answer. His own words on this occasion, which I shall beg leave to read to the House, are the best evidence of the total want of principle that runs through his actions, and that whatever he says is for the service of the moment, and never thought of afterwards.

"In the consideration of the subject before us, the first point of inquiry is, Whether the business of the Dewannee shall be conducted as it hath hitherto been, in part by the agency of the Company's inferior servants, constituting a board of revenue at Moorshedabad, or be put under the immediate control of the members of the administration. We shall not hesitate to determine in favour of the latter. The revenue is, beyond all question, the first object of government; that, on which all the rest depend, and to which every other should be made subservient. There must be a controlling power in this department. It cannot be partially delegated; but, in whatever hands it is lodged, it must be absolute and independent. But the superior council, which is constitutionally the controlling power, having no cognizance nor connexion with the inferior department, can have no knowledge of what is transacted, but from the information of the board of revenue, which, however fair and impartial, cannot possibly convey that intimate intelligence, which arises from daily practice and a direct communication with the servants of the revenue. Without such an intelligence, what authority can the administration possess in the affairs of the collections, or with what confidence can they issue any order for their improvement, impressed as they must be with the consciousness that they are but imperfect judges of matters, on which they dictate to others better informed? In effect, all authority and command will rest with the board of revenue."* I submit it to your judgment, whether these reasons, for not delegating the immediate control of the revenue department to an inferior board, be of a temporary nature; whether they only belong to some particular occasion, or whether they are valid and coercive at all times and in all circumstances. In February 1781, the supreme council consisted but of two members present, Mr. Hastings and Mr. Wheler. A friend of Mr. Hastings [major Scott, 6th Report, p. 9.] has stated in evidence to your select committee, "that Mr. Wheler fully concurred in the plan, as Mr. Hastings informed him;" whereas the charge affirms, that Mr. Hastings is solely answerable for the same. In opposition to this evidence, which, in effect, is nothing more than a declaration of Mr. Hastings himself, Mr. Moore has declared at your bar, that Mr. Wheler told him, "he had done all he could to prevent it; that the plan had been three times shown to him, and three times had it been altered on objections made by him; that ultimately he did not concur, but did not oppose because it was to no purpose." Mr. Moore's evidence on this subject is confirmed by Mr. Young, who says, he knew Mr. Wheler's private sentiments to be against abolishing the provincial councils. But the following passage, in one of his letters to me, [dated 15th May 1781,] puts that question out of doubt. "For your better information, I inclose the plan itself, by which you will clearly perceive that whatever good may be derived to the Company, it will hereafter be attended with the peculiar inconvenience of keeping the revenue business at a distance from the present or future members of the supreme board, so effectually, that such as shall henceforth be appointed, not having a previous knowledge of the business of the revenue department, will in future be unable to acquire it." Now, Sir, I charge the whole measure to have been illegal *ab initio*, and I charge Mr. Hastings with being the sole author of it for purposes of his own. He abolished the provincial councils because they were not manageable; because they interfered with his power, and were an obstacle to the execution of his corrupt designs. By

* Proceedings of the Committee of Circuit of the 28th July 1772. Vide further Report from the Committee of Secrecy in 1773, p. 21.

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committing the management of the revenues ostensibly to four persons, appointed by himself, the principal of whom (Mr. Anderson) scarce ever acted, he did, in effect, unite and vest it in his own person. You will soon see what end was to be answered by this extraordinary assumption of power. On the professed principles of the plan, the chiefs of the late councils, and the collectors of the separate districts ought to have been recalled. Yet not only they were never recalled, but many more were afterwards appointed; [Vide Mr. Stewart's Minute of 10th May 1785.] that is, he abolished the collective body of the provincial councils, but kept all his friends and favourites in their employments, and gave pensions to the rest. So that, while he was borrowing money at eight per cent. for current services, he loaded the government with the expense of two complete revenue establishments. Yet, by this plan, he said he hoped "to effect a saving of lacks to the Company." What do you suppose could be meant by abolishing the office of superintendant of the Khalsa, one of the most useful and important in the revenue department, the duties and services of which he said "would continue to be equally necessary," [Letter 5th May, 1781, par. 23.] and which he therefore transferred to another officer with another title? The committee themselves say [6th Report, Appendix, No. 3.] "that, for carrying into execution their several duties, the former establishment of the Khalsa, with some few variations, would now also be requisite." If so, why remove the superintendant? the reason is palpable. He was determined, at all events, to get rid of Mr. Ducarel, who was appointed by the Court of Directors, who had held the office four years, whose experience, integrity, and abilities would have made him a dangerous witness of the things that were in agitation. If Mr. Ducarel's services were no longer necessary at the head of the Khalsa, why was he not appointed a member of the committee? Mr. Anderson was employed elsewhere. Mr. Shore's qualifications are not disputed. But, I am sure that no man who knows any thing of the Company's service in Bengal, will affirm that Mr. Charters, Mr. Croftes, or Mr. Evelyn, had any title to be preferred to him. In point of rank, he was senior to them all. Why was the royroyan dismissed from attending the committee of revenue, where alone his attendance could be wanted? Because Gunga Govind Sing was the dewan. By vacating the office of royroyan, another troublesome check was removed, and the power of both offices united in the hands of Gunga Govind Sing. The committee tell you so themselves. One of their regulations expressly provides, [6th Report, App. No. 3.] "that the royroyan shall not be allowed to interfere in the business transacted by the dewan of the committee, as such interference would occasion frequent disputes and great delay in the business, which each would ascribe to the other." The truth is, that the royroyan, by virtue of his office, was a control over the dewan. It was part of his duty to superintend the conduct of all the dewans. By removing checks, you may prevent disputes, but what security have you against fraud? If the principle be a good one, the management of your revenues ought to be vested in a single office, and that office held by a single person. You will find that it was so in effect. In November 1772, Mr. Hastings declared, "that the utility of the canongoes was almost totally suppressed, from the change which had taken place in the revenue system." Why were they re-established in 1781? was it to check the accounts of the dewan? That was indeed originally their duty. But who is to perform it now? No other than Gunga Govind Sing, who, in quality of naib canongoe, checks his own accounts as dewan. The sole object of these three operations was to throw unbounded and uncontrollable power into the hands of one man, in whose person were united all the great offices of the revenue, wisely established to be checks upon one another. He was at the same moment, to all real effect and purpose, superintendant of the khalsa, royroyan, canongoe, and dewan of the three provinces. Sir John Macpherson gives him the title of "Native Chancellor of the Exchequer." But he was much more. He was the adviser and minister of Mr. Hastings in all his measures, and his agent in all his secret transactions. Concerning this man, as well as concerning the choice of the members of the committee, I shall have many observations to offer you. But I would first consider them in their collective capacity; on what principles they were constituted, and what measures they pursued. One of the fundamental regulations, laid down for their conduct, is remarkable. "If the members differed in opinion upon any questions, the

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majority or the casting voice of the president, or senior member present, was to decide; but it was not expected that every dissentient opinion should be recorded!" It is true they might, if the majority thought proper, report the case to the Governor-general and Council; "but the determination of the committee should not therefore be stayed, unless it should be so agreed by the majority." What sort of reference or appeal is this to the judgment of a superior tribunal? Or of what use is their decision? Why should a majority of the committee consent to any reference? And, if they did, what materials have the court of appeal to direct their judgment? They see nothing but the resolutions, or the reasons of the opinion which has prevailed in the committee, without the arguments on which the dissentient opinions might be founded; and, when they have given their decision, they find that the measure in question was carried into execution before it was referred to them. There is but one way of accounting for these monstrous absurdities. A nugatory fallacious reference to the Governor-general and Council held out the appearance of reserving to them some residue of their legal power, the delegation of which he well knew was against law. Mr. Hastings seems constantly to have thought, that his actions would never be canvassed, and that any colours would be sufficient to impose any falsehood on mankind. In fixing the amount of the settlement, the committee propose and Mr. Hastings adopts it, "as the simplest and easiest," [6th Report, p. 5.] to take the highest actual collections made in any one year from 1778 to the then present time; that is, in the ten preceding years; and, from an examination of the remissions since granted, and a comparison of the hustabood accounts, and the receipt of other years, to form their judgment and pass their decision. In November 1776, nothing would serve him but "an accurate state of the real value of the lands, as the only ground-work on which a new settlement could be constructed." To obtain such an account was the pretended purpose of deputing the aumeens; and, when I proposed to him, instead of aiming at an accurate valuation, to take the accounts of the actual receipts of rent for three years before, and to correct them by the opinions of the provincial councils, he would not hear of it. He said, "the actual receipts of government would prove a false estimate of the worth of the lands, and often widely remote from it; and that it could not be corrected by the opinions of the provincial councils." In 1781, he is satisfied with the opinion of his new committee, which indeed could be no other than his own, "that the value of the districts may be ascertained with a sufficient degree of accuracy, without entering into minute examinations or new local investigation;" and he takes the actual receipts of a single year as his standard; leaving it to the judgment of a committee fixed at Calcutta, to continue or reduce the amount, as they think proper. Consider for a moment, what this discretionary power was, and what purposes it might be applied to. I do not mean by the members of the committee, who declare that they were no more than tools in the hands of Gunga Govind Sing, but by Mr. Hastings himself through the medium and agency of their dewan.

In making the settlement, the principle professed by the committee, that is by Mr. Hastings, was in general to leave the lands with the zemindars, [6th Report, page 5.] particularly in the larger zemindaries, such as Nuddea, Radshy, Dinagepoor, &c. Why he should even pretend to make this distinction, in favour of the principal zemindars, is perfectly unaccountable. In April 1775 he declared "that the proprietors of the very extensive zemindaries were generally oppressive and extravagant, and possessed influence, which they employed in opposition to Government. That in case of war, they might even become formidable, as was the case in former times; at the least, they found the management of their estates a more laborious task than they were able or willing to undertake, and left it too much to their servants." This opinion, you see, is directly opposite to the principle assumed in 1781, and this last is directly opposite to the course which in fact he pursued. In the first place, instead of making the settlement of Bahar with the zemindars, he let that whole province (except a particular collectorship reserved for Mr. Grœme*) in farm to the Dewan and Naib Dewan of the Patna council, two persons with whom you will have occasion to be better acquainted. The province of Burdwan was delivered over to Nobkissen. [6th Report, p. 42.] This man had the charge

* Sircar Sarun.

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of the collections, as well as the office of sezawal, or punisher, whose business it is to exact or recover balances, an office incompatible with that of farmer or collector. He was united in the management, and declared to be responsible for the engagements of the young zemindar, who, as Mr. Shore tells you, was "a minor, and wholly incapable of managing the rents of his own district." In a word, the power of Nobkissen was absolute over the country. The Radshi province, instead of being settled with the rannee on reasonable terms, was offered to her vakeel with an arbitrary increase of two lacks and a half. The vakeel declaring that he had no power to agree to these terms, the farm of her estate was instantly given, for a period of two years, to her faithless servant Nundolol, who, in the first year, fell four lacks and a half in arrear. As to Dinagepoor, the present zemindar was a minor, and wholly incapable. So, instead of leaving the management with some responsible relation of the family, they accepted the proposal of Devy Sing, another Nobkissen, for the farm of the province. The settlement of Nuddea, they say, was made with the zemindar. Yet, to guard against the consequences of his misconduct or mismanagement, before he could have been guilty of either, a native was appointed sezawal at the beginning of the year; and, when he died, his place was supplied by a servant of the Company [Mr. Macdowal.] I have now gone through all the great zemindaries. In no one of them, was the management really left with the zemindar or his family. In no one of them was the settlement even ostensibly made with the zemindar, except Nuddea. Yet the professed plan of 1781 was to make the settlement generally with the zemindars, and particularly in the larger zemindaries. I am not bound to reconcile the contradictions, but I believe I shall be able to account for the facts. The principle of all others, in favour of which Mr. Hastings has said most, and which, if any credit were due to his professions, one would think he could never have abandoned, was, that long leases of lands, whether to farmers or zemindars, were essential to the good of the country, and equally beneficial to government. His opinion on this subject is strongly expressed and well supported. He tells you, [15th May 1772] "that the farmer, who holds his farm for one year only, having no interest in the next, takes what he can with the hand of rigour, which, even in the execution of legal claims, is often equivalent to violence. He is under the necessity of being rigid and even cruel; for what is left in arrear after the expiration of his power, is at best a doubtful debt, if ever recoverable. He will be tempted to exceed the bounds of right, and to augment his income by irregular exactions, and by racking the tenants, for which pretences will not be wanting, where the farms pass annually from one hand to another. That the discouragements, which the tenants feel from being transferred every year to new landlords, are a great objection to such short leases; that they contribute to injure the cultivation and dispeople the lands." In his plan of April 1775 he says, that "when the management of the revenues was the subject of the deliberations of the Board in 1772, it was unanimously agreed, that the system of an annual settlement was not calculated for the prosperity of the country," and proposes that all the lands shall be let on leases for lives. I will not bind Mr. Hastings to the natural and obvious conclusion from his own premises, namely, that if all he says concerning annual leases be, as I deem it, unquestionably true, he ought to have fixed the possession of the lands in perpetuity in some hands or other. A lease of four or five years can only be, by some degrees, a less pernicious thing than a lease for one. In the last year at least, the farmer must act on the principles attributed by Mr. Hastings to an annual lessee. But I do not exact so much consistency from him. All I contend for is that, on his own principles, if there be any which he will abide by, he ought to have let the lands universally upon long leases. The fact is, that in 1781 the first thing his new committee told him was, that "with respect to the period of the leases in general, it appeared to them, that to limit them to one year would be the best period;" and this limitation Mr. Hastings instantly professed to adopt. I say professed, for, in reality, he had no intention to be bound by it. Observe him well, and you will see, that he never lays down a general rule, but for the use of dispensing with it. To Kelleram and Cullian Sing he engaged to give the farm of Bahar in perpetuity.* To Nundolol he gave

* Vide Minutes of Evidence, page 325.

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the province of Radshi for two years. To his servant Cantoo Baboo he gave the zemindary of Baharbund in perpetuity.† The Court of Directors take notice of several other instances of the same partiality,‡ and positively direct the Governor-general and Council to procure those leases to be cancelled. Their own words are, "As you have granted these perpetual leases, contrary to our positive orders, we shall hold you responsible for the consequences, should any expense or difficulty arise in procuring their resumption." In these transactions, Sir, I state the disobedience of positive orders as the least considerable part of the offence. The whole proceeding is suspicious, and will not admit of a favourable construction. In the first place, Mr. Hastings reprobates the idea of an annual settlement. He then adopts the period of one year as the best; and, having made that the general rule, he assumes a power of dispensing with it whenever he thinks proper. Observe, Sir, the subject matter of this discretionary power is a great pecuniary trust, in the management of which Mr. Hastings is the representative of a principal, the steward of the India Company; that one of the persons excepted from the general rule, is his own servant, and that the others had no ostensible, not even a pretended merit to recommend them. [Minutes of Evidence, p. 327]. Their real recommendation to favour will be seen hereafter. If the motives of men are to be collected from their actions, if a series of suspicious acts, for which no honest reason can be assigned, may fairly be imputed to a bad principle, the circumstances I have stated to you give me a right to presume that, in all these transactions, the motives of his conduct were corrupt. There is no other way of accounting for it.

Such was the boasted institution of the Committee of Revenue. You have heard Mr. Wheler's opinion of it. As soon as Mr. Hastings left Bengal, Mr. Charles Stewart insisted on the necessity of changing the whole system, and of reverting to that of collectors. He says that "the imperfections of the present mode" (meaning the plan of 1781) "required an immediate remedy; that the objections to it were as evident, as they were universally acknowledged." [Revenue Consultation, 10th May 1785]. Mr. Mac Pherson, in general, admits the force of Mr. Stewart's objections, and avows a predilection to the system of collectorships under the superintendance of the Company's servants, without the intervention of native agents, among whom he particularly points at the improper authority of Gunga Govind Sing. But the opinion on which I principally rely, is that of Mr. Shore, who acted as president of the committee, and is now a member of the supreme council. His evidence, I presume, will be allowed to be unexceptionable. After a year's experience, he says, "With respect to the present Committee of Revenue, it is morally impossible for them to execute the business they are intrusted with. They are vested with a general control, and they have an executive authority larger than ever was before given to any body of men. They may and must get through the business; but to pretend to assert that they really execute it, would be folly and falsehood." Such was the plan, in favour of which Mr. Hastings abolished the provincial councils, and "the event of which, he said, would put those to shame who condemned it." [Appendix to 6th Report, No. 8]. He dismisses the councils for inability, and substitutes a committee in their place, of whom their acting president affirms, that it was morally impossible for them to execute the business with which they were intrusted. In defence of this scheme, Mr. Hastings professed to place great reliance on the personal character of the gentlemen who were appointed members of the committee; Mr. Anderson, Mr. Shore, Mr. Croftes, Mr. Charters, and Mr. Evelyn; and he asks with triumph, who has ventured to accuse them of any infringement of their oath? To that I say, that objections to an institution, are not answered by an appeal to the merit of the persons who are nominated to the conduct of it. The first may be mischievous or absurd, though the choice of persons may be unexceptionable. Very good men may be tempted, by very great appointments, to lend their names to the execution of a project, which their judgment may disapprove. Few men, let their integrity be ever so clear, will be inclined to look narrowly into the defects of a plan, from which they are to receive ten thousand pounds a year. Yet, even of these gentlemen, I shall take the liberty to say, that the choice of them was not free from exception. The committee ought to have been

† Revenue Consultation, 31st August 1779.
‡ General Letter, 15th January 1783, par. 34.

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composed of the oldest and most experienced servants in the revenue department. The members of the committee were all juniors in rank to the chiefs of the councils, who were left in the districts, and who were bound to obey their orders. If the chiefs deserved to be degraded, they ought to have been removed from their employments. There is no wisdom in disgracing men whom you continue to trust. If they deserved to be trusted, it was tyranny to place their inferiors in authority over them. Mr. Anderson I presume, Mr. Shore I know, was qualified for his office. The death of Mr. Croftes precludes me from discussing, so minutely as I would have done, the propriety of placing him in the committee. He was accountant general of the revenue department, with a salary of 2462*l.* a year. He was subtreasurer of the general treasury He was contractor for victualling the Europeans in garrison at Fort William. He was contractor for supplying the army with draft and carriage bullocks, in which, I have declared in council, and it never was contradicted, that the name of Mr. Croftes was used to provide for a variety of concealed interests. [Appendix to 9th Report, No. 119]. Any one of these employments, particularly the last, of which the profits are stated to be unknown, would have been a sufficient occupation for any man. As to revenue business, if he had any knowledge, he must have gained it without practice or experience. He was never employed in the revenue department, nor had ever been out of Calcutta. When Mr. Anderson spoke of his qualifications to be a member of the committee, I heard him with astonishment. On this gentleman, however, united with Gunga Govind Sing, the business of the committee devolved. In effect it was entirely managed by Gunga Govind Sing. Mr. Croftes was the universal agent of Mr. Hastings, in every transaction of money that required the management of an European. This accounts for the variety of trusts, of offices, and emoluments, with which he was loaded. Concerning the qualifications of Mr. Charters and Mr. Evelyn, I have no information. The latter was a supernumerary. The committee ought to have consisted but of four. The fifth, I suppose, was appointed to supply the place of Mr. Anderson, who, though president of the committee, and who, from the stress laid on his abilities, ought to be deemed an essential member of it, was for the most part employed in carrying on negociations with the Mahrattas. He has told you himself that in four years, during which he received 10,950*l.* a year as president, besides 4,280*l.* a year as ambassador to Scindia, he attended the committee but seven months.* Mr. Shore also was absent a considerable part of the time; sometimes for his health, at others to make the settlement of the two distant provinces of Patna and Dacca, though, by the original plan of the committee, the members were to remain fixed at Calcutta. Mr. Charters also was sometimes deputed on the same errand. The truth is, they were glad of any pretence or opportunity, to escape from the dominion of Gunga Govind Sing. You have seen how these gentlemen were employed. Now observe how they were paid. To encourage them to do their duty, they were allowed a commission on the revenues. To place them above temptation, this commission gave them, one with another, 10,000*l.* a year. Mr. Anderson had 10,950*l.* Mr. Shore and the other three members had 9,100*l.* a year each.† That is, they were placed on a level with the members of the supreme council, who constitute the government, and for whom parliament thought 10,000*l.* a year a sufficient allowance. In giving such exorbitant emoluments to the members of a subordinate office, I charge Mr. Hastings with a scandalous waste of the public property, and breach of trust to the East India Company. You have heard from others, what sort of measures he had recourse to, to supply the demands of his universal, unbounded profusion. You will not wonder that prodigality should be supported by rapine, or that it should terminate in ruin. It is notorious that he left the government overwhelmed with debt, without specie, and without credit. By the printed list of salaries, laid before the House in February 1785, it appears that the annual commission, divided among the committee, must have amounted to 52,220*l.* But I cannot discover, how it could possibly have produced that sum. The commission, as I find it fixed by the

* In four years Mr. Anderson received 60,920*l.* of the Company's money.

† The whole establishment of this single office amounted to 66,985*l.* Besides which, another complete revenue office was continued under the Governor-general and Council, amounting to 10,345*l.* a year; and a third establishment of duffers or offices, amounting to 10,025*l.* a year. In all to 87,355,000*l.*

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plan, was to be at the rate of two per cent. on all the net revenue paid at Calcutta, and of one per cent. on the revenues paid in the districts. I cannot conceive that Mr. Hastings was mad enough to think of bringing all the revenues to Calcutta, though he professes to have aimed at it. As soon as they arrived, he must have carried them back again to pay the army and to purchase the investment. The net revenue, at a medium of three years, did not exceed 190 lacks of rupees. If one-third of it was received at Calcutta and two-thirds in the districts, the commission would amount to 2,53,000 rupees, or about 26,000*l.* If half of the revenue was received at Calcutta and half in the districts, the commission would then amount to 2,85,000 rupees, or 30,000*l.* Yet the distribution, stated in the printed list shows an amount of 52,220*l.* I am sure of the fraud, though I cannot account for it. Such were the rewards allotted by Mr. Hastings, at the public expense, to a set of gentlemen, one of whom, their president, attended but seven months in four years, and all of whom, if you believe Mr. Shore, found it "morally impossible to execute the business, with which they were intrusted." I can readily believe that they were placed above temptation, though it would have been more to their honour, if moderate means had been thought sufficient to accomplish that end. As far as this was the object, the whole expense was thrown away. Mr. Shore assures you "that it was of little advantage to restrain the committee themselves from bribery and corruption, when their executive officer had the power of practising both undetected." In effect then, Mr. Hastings gave them 52,000*l.* a year for not doing the business, and never meant they should do it. Excepting Mr. Croftes, the only person he really trusted was Gunga Govind Sing. In the hands of this man the management of the territorial revenues was vested by Mr. Hastings. Through his agency, all those flagitious bargains, which I shall presently state to you, were transacted. Concerning his exorbitant power, and the profligate use he made of it, the evidence on your table, and the witnesses who have been examined at the bar, are unanimous. The opinion of Mr. Shore, in particular, is well worth your attention. He objects to the institution, of which he was a member, "because the committee must have a dewan, or executive officer, call him by what name you please. This man, he says, in fact, has all the revenue paid at the presidency at his disposal, and can, if he has any abilities, bring all the renters under contribution. It is of little advantage to restrain the committee themselves from bribery or corruption, when their executive officer has the power of practising both undetected. To display the arts employed by a native on such occasions would fill a volume. He discovers the secret resources of the zemindars and renters, their enemies and competitors; and by the engines of hope and fear, raised upon these foundations, he can work them to his purposes. The committee, with the best intentions, best abilities, and steadiest application, must after all be a tool in the hands of their dewan." In all these opinions of Mr. Shore, Mr. Anderson has declared his concurrence. [Minutes of Evidence, p. 351.] You cannot reasonably suspect either of them of wishing ill to Mr. Hastings; they are men of character, they are his friends, and selected by him for their superior qualifications. Yet they tell you themselves, that they were only tools in the hands of Gunga Govind Sing. The character given of this man, by other witnesses of equal credit, is to the same effect. Mr. Higginson tells you, "that his character was a very bad one; that his influence at the Khalsa gave him opportunities of being very partial and very frequently oppressive, and that this was the opinion of the Europeans with whom he conversed, as well as his own." Mr. Young says, "that he was considered by the natives as the second personage in the government; that he was universally hated by them for his peculations and oppressions, and that the Europeans had the same opinion of him." Mr. Moore affirms, that "he was looked up to by the natives as the second person in the government, if not the first; that he was considered as the only channel for obtaining favours or employment from the governor. That there was hardly a native family of rank or credit within the three provinces, whom he had not some time or other distressed and afflicted; scarce a zemindary, that he had not dismembered and plundered." As soon as Mr. Hastings was gone, Mr. Stables, a member of the supreme council, insisted on the immediate removal of Gunga Govind Sing. After stating a number of atrocious charges against him, he concludes with saying, "The cries and complaints of the natives in general show how

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unworthy he has been of his trust, and the improper people he has employed under him, of which we have a singular instance in the person of Bulram Gose, who is now under confinement and examination for forgery, and who, under such circumstances, was recommended by Gunga Govind Sing to be dewan of Nuddea, to control one of the most ancient Bramin families in Bengal." Mr. Charles Stewart supports the motion of Mr Stables, and says, "I doubt not but the board will be unanimous in a measure, which appears to me no less necessary, if considered with respect to the interests of the Company, than humane with respect to the natives, in removing from power a man, who has applied it to the most oppressive purposes." In May 1775, when sir John Clavering, Colonel Monson and I formed a majority of the council, we dismissed this man from his office of dewan of the Calcutta committee of revenue, for a fact, which he confessed, and which we deemed to be a gross breach of trust. On that occasion Mr. Hastings * admitted, "that he had heard him loaded with general reproaches, but had never heard any one express a doubt of his abilities." In November 1776, he not only reinstated him in his former office, but placed him at the head of the Aumeens. The Court of Directors, as soon as they heard of it †, declared "that his dismission from the Calcutta committee had rendered him an improper person to transact affairs of such moment to the Company." Nevertheless in 1781 you see him, under the title of dewan of the Committee of Revenue, uniting all the great revenue offices in his person, with all the revenues at his disposal. Mr. Shore tells you expressly that the committee was but a tool in his hands. Taking all the circumstances together, I charge Mr. Hastings with disobedience of orders, and a flagrant breach of trust, in committing such important offices and such exorbitant powers to a man dismissed from a former office for breach of trust, condemned on that account by the Court of Directors as an improper person to be trusted with an employment of less consequence; notoriously rapacious, oppressive and corrupt. To employ such a man at all, was of itself a high crime in Mr. Hastings. If the character of Gunga Govind Sing had been doubtful; if in all the evidence which you have heard concerning him, there had been a single voice or opinion in his favour, some pretence might be set up for attributing the choice of him to error of judgment. Mr. Hastings knew him thoroughly, and employed him because he knew him. I have stated to you, Sir, that Mr. Hastings's grand object, in dissolving the provincial councils and committing the management of the revenues nominally to a committee at Calcutta, but really to a native agent of his own, was, that he might have it in his power to sell the country. I am now to prove the truth of this assertion. The evidence very lately produced at the bar of this House, [Minutes of Evidence, p. 328.] has laid open a scene of profligate, abandoned peculation, which perfectly accounts for every part of Mr. Hastings's conduct in this transaction. I charge him with having sold the settlement of the greater part of the provinces of Bengal and Bahar to certain natives for great sums of money privately received by him, through the medium of Gunga Govind Sing. That the whole country was sold in the same manner for their joint profit, I, for my own part, have no sort of doubt. The facts, which I can prove, give me a right to that conclusion. I charge Mr. Hastings with having sold the farm of the great province of Burdwan to Nobkissen, a mutseddie, a writer, or banyan of Calcutta, for three lacks of rupees, or 30,000*l*. The facts are not denied. This man, with the united powers of farmer and sezawal, powers never united before, had an absolute dominion over the province, and Mr. Hastings confesses in his defence, [p. 60.] that upon Nobkissen's intreaty, he accepted the money. My honourable friend near me (Mr. Sheridan) has already brought this transaction before you, as an instance of unlawful receipt of money, under the head of bribery and corruption. I now bring it before you as particularly belonging to, and accounted for by the present charge. On one side you see a great sum of money paid, on the other the farm of a province given. Is it possible to doubt that one was the price of the other? What possible reason could such a man as Nobkissen have for giving Mr. Hastings 30,000*l*., if it had not been so agreed when he obtained the farm? What possible motive could Mr. Hastings have for giving the farm of Burdwan to such a man as Nobkissen, but to get the 30,000*l*? In his defence he says, "In the year 1783, when I was actually in want of a sum of money

* Appendix to the 6th Report, No. 17.
† Letter 14th of July 1777, par. 44.

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for my private expenses, I borrowed three lacks of rupees of Rajah Nobkissen, an inhabitant of Calcutta, whom I desired to call upon me with a bond properly filled up. He did so; but at the time I was going to execute it, he intreated I would rather accept the money than execute the bond. I neither accepted the offer nor refused it; and my determination upon it remained suspended, between the alternative of keeping the money as a loan to be repaid, and of taking it, and applying it, as I had done other sums, to the Company's use; and there the matter rested until I undertook my journey to Lucknow, when I determined to accept the money for the Company's use." After these declarations, will you allow him to tell you now, that he received this money originally as a pescush or fine to the Company for a grant of the farm of Burdwan? I charge Mr. Hastings with having sold the farm of Dinagepore for four lacks of rupees in the year 1780, and with having, in the succeeding year, delivered over the province, and even the management of the rajah's household, to Devy Sing, a person of much the same description, but of a much worse character than Nobkissen. The sum received is ascertained by the account inclosed in Mr. Larkins's letter of the 5th of August 1786; but the name of the person, who gave it, is not mentioned. I charge Mr. Hastings with having sold the settlement of Nuddea to the rajah for three lacks of rupees. This sum also is acknowledged in the same account. I charge Mr. Hastings with having received 58,000 rupees, or 6000*l.* from Nundolol for the farm of Radshi. Is it not to be believed that he was contented with that sum for setting aside the zemindar, and giving the farm to one of the zemindars servants for two years? But this is all that can be proved by Mr. Larkins's letter. Finally, Sir, I charge Mr. Hastings with having sold the farm of the province of Bahar to Kelleram and Cullian Sing for four lacks of rupees, or about 40,000*l.* with a promise of making the farm perpetual in their hands. The evidence of Mr. Young and Mr. Moore first brought this atrocious fraud, with all its circumstances, to light; and now you find it acknowledged in Mr. Larkins's account. It was this discovery that led to all the rest. The facts, for a long time carefully suppressed, are now admitted. That the farms were given to sundry persons, who paid money for them, is not disputed. The practice, when it was no longer possible to conceal it, is defended. Before I examine the justification, I request you for a moment to consider the facts of the transaction, as they stand already in your view. Observe, at what period of the year, and with what unaccountable precipitation, the provincial councils were dissolved in two months after I left Bengal. Observe that the lands were immediately thrown into the hands of a few native agents; that to make way for these agents, not only the Company's servants were set aside, but the zemindars, and other proprietors, were superseded in the management of their estates; that these agents were not persons of rank and reputation in the country, but a set of low men, of whose situation and character no one circumstance is known, which ought not to have excluded them, not only from so great a trust, but from any employment whatever. One of them is a writer at Calcutta, formerly a banyan; another is a writer at Moorshedabad. As for the personal merits of these men, I believe I shall have the voice of every European in Bengal to support me, when I affirm that two more subtle intriguing knaves do not exist in that country than Nobkissen and Devy Sing. [Vide Consultations of 13th Sept. 1772.] Nundolol had already been trusted with the farm of Radshi for the year 1777-8. In that year, he fell in balance to the enormous amount of 7,57,929 rupees, or about 80,000*l.* No part of it was ever exacted from him; and in 1781, Mr. Hastings trusts him with the same farm again. He then incurs a further balance of 4,59,645 rupees, or 50,000*l.*, and then he is dismissed. Of all this monstrous embezzlement, the auditor of the Indian accounts tells you, [State of Balances, dated 11th April 1787,] that only 20,000 rupees, or about 2,000*l.* out of 130,000*l.* have been recovered from him. It is not necessary for me to enter minutely into the character and situation of Kelleram and Cullian Sing, to whom Mr. Hastings made over the province of Bahar. Mr. Young's evidence, I believe, has attracted the attention, not only of this House, but of the public. At the time when Mr. Hastings gave the country to these men, they had lost cast, they were persons of no reputation, they were bankrupts, they were in a state of indigence, and one of them, Kelleram, who had been trusted with the collections of a district [Rotas,] under the Patna Council, was actually in confinement for a large balance due on that account, which never was

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exacted. Mr. Hastings sent for him out of confinement, and, without consulting the Patna council, gave him the farm of the province. The business was secretly settled between them at Calcutta while I was there, but not declared till after my departure. I never heard of it. In the first year of their management, they fell in arrear to the amount of 8,12,465 rupees, or above 80,000*l.* They were then removed and put under a sham restraint, but their balances have not been paid.* It is fit you should know, in what manner all these people treated the country, while they had it in their power. Mr. Young tells you, "that the power committed to Kelleram and Cullian Sing was ruinous to the country, and cruelly oppressive to the people; that they acted, in all things, as if they had been appointed arbitrary, despotic sovereigns of it; and that giving them the farm of Bahar was of a lasting prejudice to the revenue, because they desolated the country, ruined agriculture, distressed the people, and caused many of them to fly." [Minutes of Evidence, p. 326. 338.] Mr. Moore affirms that the exactions of Devi Sing in Dinagepore "were such as to cause an insurrection of the whole country, and that the Company's troops were turned out to quell it." I need not tell you that resistance of any kind, on the part of that timid, helpless people, supposes a severity of oppression, which no other race of men would endure for a moment. When these transactions were finally forced into the view of Government, Mr. Hastings declared, that he well knew the man, and how capable he was of the crimes imputed to him. His words are, "I so well know the character and abilities of Rajah Devi Sing, that I can easily conceive, that it was in his power both to commit the enormities laid to his charge, and to conceal the grounds of them from Mr. Goodlad." This he says in January 1785. But will he, or any man for him, presume to say that, when the committee of revenue not only "accepted the proposals of Devi Sing for the farm of the province, but even delegated to him the management of the zemindar's household, though not in any respect connected with the settlement," will he venture to say that in November 1781, when the committee told him "that no objection could be made to the choice of the man," he knew nothing of his true character? [6th Report, p. 42.] I never saw Devi Sing; but I am ready to declare upon oath, that Mr. Hastings has often mentioned him to me as one of the greatest villains in the country. In the account of the balances of Radshi, signed by the auditor, I find that in 1781 "Nundolol made an arbitrary assessment of the districts, and carried on the collections, without considering the ability of the country, or regarding the distresses of the people; whence numbers of the ryots deserted, others resisted, and the people, in general, were reduced to a state of poverty, and that the balances of the ensuing years, when he was out of the management, were attributed to his oppressions." Now, Sir, let it be remembered that from the farmers of the lands Mr. Hastings received large sums of money, under the title of Peshcush, the receipt of which he carefully concealed from the years 1780 and 1781 to 1787. I affirm that his having sold the farms, whether for his own profit or not, was never heard of in England, until it was discovered to you by Mr. Young. Even Mr. Larkins's letter, though it contains a confused account of the monies received, says nothing of the persons from whom, or of the reasons for which they were taken. A discovery of the fact has at last produced a justification, on which I charge Mr. Hastings, first with the specific acts of corruption which the justification admits, and secondly with professing and endeavouring to establish a principle the most profligate, the most corrupt, the most dangerous, I will not say that ever was avowed, (for no man ever avowed such a principle before,) but that ever was admitted into the practice of any government. He says, or his authorized friends say it for him, "that he thought it was right, at that time of public distress, to take that method (viz. receiving a peshcush privately from the farmers) of procuring money for the Company, which could not be procured as part of the established revenue." [Minutes of Evidence, p. 347.] Taking the word Peshcush in a sense the most favourable to Mr. Hastings, I understand it to be equivalent to what we call a fine, or extra sum payable on the grant of a lease, but not included, or provided for, as it should have

* It has since been discovered that Cullian Sing receives a pension of 50,000 sicca rupees a year, which must have been given him by Mr. Hastings. Vide Mr. Mackenzie's Minute of 10th January 1786.

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been, in the lease itself. This appears now to have been one of the methods, which Mr. Hastings says he took to raise money "for the Company's benefit at times when they very much needed it." [Vide his Letter of 22d May, 1782.] Now, Sir, let it be admitted for a moment that his intentions were sincere, that he took the money for the Company, and that he applied it to their service. I ask, in the first place, what right had he to do so? As Governor-general, he had no powers distinct from the council. He had no separate trust; he was chief member of the government, and nothing more. No public act of his was legal, unless it was founded on a resolution of the council. If the act was lawful, or even if the intention was honest, what reason had he for keeping it a profound secret? Why did he not propose and resolve it in council? He had no opposition to apprehend. Why did he not at least communicate the measure to his colleague Mr. Wheler? Why did he not, at all events, inform the Court of Directors of what he had done for the Company's service? This fine, or peshcush as he calls it, was levied in 1780 or 1781. Yet it never was known here before Mr. Young gave his evidence at the bar of this House on the 20th of last month. I assume it then as a point that has not been, and cannot be contested, that the acts in question were illegal and clandestine. The money was taken against law, and he concealed the receipt of it as long as he could. It is very difficult to allow any man credit for upright motives for such conduct. Whereever money is concerned, there is no way, but by fair and open dealing, to guard against suspicion. Mr. Hastings was bound by laws which he did not obey, and accountable to persons to whom he gave no account. But it is stated, as a complete vindication of this transaction, that all the money obtained by it was carried to the Company's account. For the truth of this assertion, we have Mr. Hastings's word, and nothing else. Whether the account, transmitted in Mr. Larkins's letter, be complete or not, cannot be known to any man living, but to Mr. Hastings and Gunga Govind Sing. With affairs of this nature he never trusted a European, unless it was the late Mr. Croftes, who conducted his remittances. Two gentlemen, otherwise much in his confidence, I mean Mr. Anderson and Mr. Markham, tell you that he never communicated these transactions to them. Mr. Anderson says, "that he frequently heard reports of money being paid to Mr. Hastings, to which he, at first, paid no regard and scarcely believed them." The use he made of Mr. Larkins has been fully and ably stated to you on another occasion. I shall confine myself to that gentleman's letter of the 6th of August. The contents of it are very material. You have been assured that whatever money was secretly received by Mr. Hastings was intended for the Company and applied to their service. Mr. Hastings, in his famous letter from Cheltenham, [dated 11th July, 1785.] says, "I should have deemed it particularly dishonourable to receive for my own use money tendered by men of a certain class, from whom I had interdicted the receipt of presents to my inferiors, and bound them by oath not to receive them. I was therefore more than ordinarily cautious to avoid the suspicion of it, which would scarcely have failed to light upon me, had I suffered the money to be brought directly to my own house, or to that of any person known to be in trust for me. For these reasons I caused it to be transported immediately to the treasury." Now look at the account sent home by Mr. Larkins. By this it appears, that the peshcush (received from Nuddea, Dinagepore, and Patna only) amounted to nine lacks and a half, of which three lacks were detained by Gunga Govind Sing; and Mr. Larkins tells you that "although Mr. Hastings was extremely dissatisfied with the excuses which Gunga Govind Sing assigned for not paying Mr. Croftes the sums stated by the paper (No. 1.) to be in his charge, he never could obtain from him any further payments on this account." The assertion then, that all the money was immediately sent to the treasury, is manifestly false. The peshcush money at least must have been received by Gunga Govind Sing, who kept one third of it for his own use. Is it possible to look at these circumstances, and not to see the collusion between Mr. Hastings and Gunga Govind Sing; that it was their original agreement to divide the money between them, two thirds to one, and one third to the other, and that, on this principle, Gunga Govind Sing kept no more than his share? Mr. Hastings, we are assured, was extremely dissatisfied, but never could obtain any further payments from him. Now, is it a thing to be believed, is it a

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pretence to be endured for a moment, that Mr. Hastings, the all-powerful Governor of Bengal, could not have compelled such a man as Gunga Govind Sing, or any other native in the Company's service, to refund a sum of money that belonged to the Company, if he himself had nothing to fear or to conceal on his own account? Or, if it be true that the levy of a pescush is liable to such a consequence, that one third of it may be detained with impunity by the native officers who collect it, how is it possible to pass a stronger condemnation on all such crooked methods of raising money for the pretended service of the public? If I could suppose it true that Mr. Hastings really wished that Gunga Govind Sing should refund this money, which, with the terror of a parliamentary inquiry hanging over him, might possibly have been the case, why did he not insist on his compliance? Why did he not compel him to refund the Company's money? Because he was himself an accomplice in the fact. Because Gunga Govind Sing was in the secret, and had him in his power. In effect, Gunga Govind Sing was his master. It is not in the reach of human ingenuity to find another reason for his forbearance. I therefore charge Mr. Hastings with gross and palpable collusion with a public robber, with suffering him to defraud the Company of a large sum of money, and with continuing him for five years in an office, which gave him the disposal of the revenues, notwithstanding the fraud, of which he knew he was guilty, and in spite of the cries and complaints of the whole country against him. But still it seems, Mr. Hastings was extremely dissatisfied. What proof is there of it? None. On the contrary, the proof of collusion is irresistible. He not only continued this villain in office, but, on leaving Bengal, recommended him [Vide Revenue Consultation, 16th Feb. 1785] as a most meritorious servant of the public, and pointed out the manner in which he ought to be rewarded, namely, by large tracts of land to be granted him out of different zemindaries, particularly out of the estate of the infant rajah of Dinagepore. Mr. Charles Stewart says, "that Mr. Macpherson laid great stress on the recommendation of the late Governor-general in favour of Gunga Govind Sing," who, though he did not obtain the grants of land, was continued in his station. You have been told by a witness of considerable authority, "that it was a custom in the Mahomedan Government to receive money as a peshcush, besides the established revenue; and that it might also be said that the zemindars, or farmers, would agree to an extra payment of that kind, when they would not agree to an increase of the established revenue." On the first part of this justification, I shall only observe, that a corrupt custom of the Mahomedan Government (if it were a custom, which remains to be proved) would be no example for a British governor, acting under a positive law of his own country, made on purpose to correct abuses and to introduce a better system. In the second part, Mr. Anderson evidently shifts the question. We are not inquiring, whether the farmers would rather pay a fine once for all, or agree to an increase of the established revenue, but why they should wish to pay that fine secretly to the Governor, rather than openly to the Government, to whose account it would be publicly brought, and credit given them for it. Undoubtedly, if any thing better could have been said for such a practice, you would have heard it from Mr. Anderson. He is a person of experience and ability, and warmly attached to Mr. Hastings. Yet, when I asked him, whether he would recommend such a principle to the East India Company for the management of their revenue, his answer was, "I am really incapable of saying whether I would or not!" The first of the Company's officers in the revenue department, the president of the committee of revenue, cannot tell this House, whether he would recommend such a method or not. Yet he was not taken by surprise; he came prepared upon the subject, and brought a part of his evidence in writing. I saw the cause of his embarrassment, and did not press him; yet between silence in such a person and an open condemnation of Mr. Hastings, the difference is very little; his real opinion may be collected from other parts of his evidence. He says, "I well remember I went to Mr. Hastings, and mentioned to him what I had heard, and that he told me to give myself no concern or uneasiness on the subject; but to proceed in the discharge of my duty without regard to any thing I might hear." Now, why should he be uneasy at hearing that Mr. Hastings had received money from the farmers, if he thought the practice might be justified, if he really thought that this was a good way of raising money for the public service in times of distress?

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if it were so, why should such a business have been transacted by Mr. Hastings alone, without the assistance of the Company's servants? Above all things, why should Mr. Hastings have withheld the knowledge of it from Mr. Anderson, his most confidential friend, and whom he had recently placed at the head of the revenue department? If he originally meant to bring this money to account, what occasion had he to conceal the receipt of it? He might have taken it publicly as a fine. He says, that "he was more than ordinarily cautious to avoid the suspicion of receiving money for his own use from the farmers." Why? "Because he had interdicted the receipt of presents from that class of men to his inferiors." He was conscious then that the example was dangerous; he knew and in effect has admitted, that a corrupt governor has no power to restrain the corruption of others. But Mr. Hastings's intentions were innocent; he meant the public service, and nothing else: then why should he conceal his actions? There could be no dishonour to him; there could be no danger in the example, but from the possible discovery of that conduct which he endeavoured to conceal. Between his receiving money openly for the public, and his interdicting the receipt of presents to his inferiors, there would have been no contradiction. At all events, he should have provided some voucher to prove his original intention. He should have secured some witnesses to answer for the truth of his present declarations. The whole transaction on the face of it is illegal, clandestine, and fraudulent. Will you allow him to plead his intentions in opposition to his actions, and will you take his single word for his intentions? By Mr. Larkins's letter it is admitted that, out of nine lacks and a half received under the title of peshcush, Gunga Govind Sing has cheated the Company of three lacks. Perhaps it may be thought that the remainder at least was a clear gain to Government. The fact is, that all the farmers, who gave money privately to Mr. Hastings, repaid themselves with large interest out of the public revenue. Kelleram and Cullian Sing, who gave him four lacks, were in arrear at the end of the first year, to the amount of seven lacks and a half; Nundolol to the amount of five lacks. In Burdwan the balance of the first year was 1,64,000 rupees, and 2,71,000 of the second. In Nuddea the zemindar, who had given Mr. Hastings three lacks, incurred so large a balance in the two first years, that Mr. Hastings was compelled to dispossess him also, as well as the other three. In the mean time, the power of the farmers over the people was unlimited; and they used it, as temporary power in the hands of low men is always used. Having no permanent interest in the country, they plundered it rapidly, without judgment or mercy. Mr. Young tells you, "that the farmers of Bahar assumed the administration of justice: that they made the settlement in the country with the zemindars, taloukdars, and ryots, in an arbitrary manner, by compelling many of them to give a large increase upon the engagements they had previously entered into with the Patna council. Restraint and confinement were used to effect it, even with the first zemindars of the country, and it was exacted with the utmost rigour, and, he believes, in some instances, by corporal punishment." Such are the natural, unavoidable abuses of servile authority; and such were the instruments employed by Mr. Hastings to afflict and dishonour all the noble families of the country. It is not in human nature that he whose mind has been degraded by slavery, should exercise power with moderation. Servility and tyranny, though remote in their condition, have a close affinity of character; and the former is a dangerous preparative for the latter. In the mind of a slave, to inflict disgrace is a compensation for having suffered it; to display an insulting dominion, is to balance the degradation of an overacted submission. The exactions of Devy Sing and Nundolol, in Dinagepore and Radshi, and the effects they produced, have been stated to you already. And how could it be otherwise? Did Mr. Hastings expect that they who bribed him, would not reimburse themselves? Was he at liberty to restrain them in the exercise of a power, which he had sold to them? The thing they bought of him was a privilege to plunder. They paid for it, and they used it. You have it in evidence, that Kelleram told the Phousdar, or chief criminal magistrate of Bahar, whose jurisdiction he had invaded, "that he did not fear the nabob himself, for that he had settled every thing very securely before he came up;" that is, with Mr. Hastings at Calcutta. You now have the whole transaction before you. Mr. Hastings takes upon him to raise money privately, by what he calls a Peshcush. Of the sum discovered his agent keeps a third;

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the farmers run in arrear to double the amount of the whole, the people are oppressed, and the country depopulated. What he received from all the provinces is still a secret. According to Mr. Hastings, the peshcush belongs to the public. If it does, you have a public revenue, levied without public authority; of which no public account is kept; for the collection of which there is no public officer; and for the receipt of which there is no public treasurer. What reason have you to be satisfied that a revenue, so imposed and so collected, has been, or ever will be brought to account? These were the real reasons for which Mr. Hastings abolished the provincial councils, and established the committee of revenue. The pretended object of the change was to improve the revenues. Your select committee observe with great truth, "that, when any new change is projected in the revenue system of Bengal, an increase of revenue is generally held out to the India Company, as the most likely means to insure their approbation to the measure." [6th Rep. p. 27]. Accordingly Mr. Hastings concludes his defence with a general assertion, that the revenues had been considerably increased under the management of the committee; that is, under the management of a set of men, who tell you themselves, that to "pretend to say, that they really executed the business, would be folly and falsehood." If the assertion were true, I would not allow it to be a proof of the wisdom and utility of the measure, unless I knew by what means the increase was obtained. The power of that government over the natives is despotic. If you can discover that they have any property left, you may certainly extort it from them. They may try to conceal, but they have no means of defending it. Mr. Hastings, I know, looks for ultimate shelter and security in the avarice of this country. He promises himself that profitable crimes will never be condemned in England; and that, if he can persuade you that he has augmented your revenues, you will never ask him by what means. But I shall not leave him even that profligate resource. It is not true that the revenues were considerably increased under the management of the committee of revenue. I meet him with contradiction. I am at issue with him on the fact; and though the burthen of the proof belongs to the party that asserts, I undertake to prove that the assertion is false. Let us see, what it was he promised to effect by the change in 1781, and how much he has performed. In order to reconcile the Company to the measure, he promised them that it would produce a specific annual gain of 51,09,673 rupees, [Vide his Estimate, 6th Report, p. 28.] which, in four years, ending in April 1785, would amount to 204,38,692 sicca rupees. If he performed his promise, there must have been an increase of revenue, beyond the average of the collections of former years, to that amount. Now it appears from the accounts on the table, that the average amount of collections of the nine first years of his government was 200,60,219 sicca rupees per annum; and that the average of the four succeeding years, under the committee of revenue, was only 187,80,020 rupees. The annual difference or decrease is 12,80,199, which, in four years, amounts to 51,20,796 rupees. On one side, then, he promises an increase; on the other, he falls short of the former amount. Put the promise and the performance together, and you will find, that he has imposed a deceit on the Company to the amount of 255,59,488 sicca rupees, or about three millions sterling, in the first four years of the committee's management, the whole of which we have a right to presume was exacted from the country. In the fifth year, the collections fell considerably short even of the average of the four preceding years; and for this too I hold him answerable, though he had quitted the government, since it arose from the continued operation of his own measure. In May 1786, the Governor-general and Council abolished the committee. I know it is impossible for you to judge of the accuracy of these calculations without an inspection of the accounts. All I can say is, that I am ready to establish it in any manner that may be required of me. The collection of the five last years of the revenues of Bengal, failing as it has done to so great an amount, and charged as it is by me with the grossest frauds, waste, and embezzlement, deserves to be examined by a special committee. When Mr. Hastings asserted, that he had considerably increased the revenues, he ought to have produced a specific account and a comparative view of the collections. He was bound to prove the truth of his assertion. This he has not done; and, after all, if the assertion were true, it would be no proof of the merit he pretends to. Admitting that

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he had increased the public revenue, I would ask him, has he improved it? A mere augmentation of revenue supposes nothing but an act of power, and might have been effected, for a time at least, without industry, judgment, or economy. But Mr. Hastings, we are told, is a great financier; he has the sole exclusive merit of reviving and establishing a monopoly of salt and opium. One would think he had made some wonderful discovery in the mystery of taxation. The language of his admirers, on this subject, would lead you to conclude, that the possibility of raising a great supply, by a monopoly of one of the necessaries of life in the hands of an arbitrary government, was a secret reserved for the genius of Mr. Hastings. He speaks of it himself, as if he had invented it. [Vide his Review, p. 126.] I cannot allow him the credit of the discovery. The monopoly of salt existed in Bengal before his government, and was suppressed by orders from home. But, if there be any merit in reviving a mode of exaction reprobated by every wise government, and particularly prohibited by the East India Company, I admit that Mr. Hastings has a claim to it. If it be a rigorous monopoly, undoubtedly it will be productive. If you take proper measures to exclude foreign salt, the price of your own will rise of course. These are no great secrets in finance. But, is the profit real? is it entire? is there not a proportionate loss in the land revenue of the salt districts? and, if the plan were ever so profitable, is it fit that the necessaries of life should be monopolized in Bengal? Will you give the sanction of Parliament to that system of taxation? The objects to which it may be applied, are not exhausted. Sir, I am firm in declaring, that the manufacture of salt should be left with the owners of the lands, and that the revenue to be raised from it should be only by a duty. Mr. Hastings himself was once of that opinion. [Appendix to 9th Report, No. 89, 90.] But I know I shall be told that, when he established this monopoly in the year 1780, the Government was in distress. It certainly was, and he alone was the author of it. His defence as a financier makes him criminal as a governor. There never was an example of so rapid a decline from prosperity to distress, from wealth to indigence, as that which took place in the government of Bengal in two years only, in 1779 and 1780. By his own account, the Company's treasury was full in April 1779. [Vide his Minute of 10th August 1778.] In 1780 you find him reduced to the necessity of raising money by monopolizing one of the necessaries of life. With respect to the monopoly of opium, it is not pretended that much was gained by it. You have heard it avowed, when it could not be denied, that the opium contracts were always considered in Bengal as a fund of favour and patronage, and the House has resolved to impeach Mr. Hastings for the contract he gave to Mr. Sullivan. This monopoly then I charge as an iniquitous oppression of the natives, without the plea of public profit to excuse it. In the name of God and Justice, what is to become of the people of that country, if you suffer your governors first to tax the lands, and then to engross the produce? These he calls his merits; these I call his crimes. The details of oppression, with which this monopoly in particular has been accompanied, are horrible. I know it to be true, that the ryots have been forced by a powerful contractor to cut down large tracts of green corn to make way for a plantation of poppy. [Vide 9th Report, p. 37, Appendix to ditto, p. 69.] He would not even wait until the corn was ripe. There would be no occasion to force the cultivation of this destructive drug, if the hands that raise it were at liberty to sell it. The profit on opium is immoderate; but in the profit they have no share. Instead of being allowed to carry it to an open market, they are compelled to sell to a single person, armed with the power of government, and, if they refuse the price he offers them, they cannot sell at all. The government, which ought to judge and protect, is party against them. For what purpose is all this wickedness committed? not for the India Company; they get nothing by it. Avowedly then for job and patronage, to make the fortune of a favourite in an hour.

I now submit to the determination of the committee, whether this series of facts and the inferences drawn from them make good the charge, that the internal government of Bengal, under the administration of Mr. Hastings, was from first to last a uniform system of tyranny, fraud and peculation; that it was profligate in its principle, arbitrary in its means, and oppressive in all its effects; and that the final predominant purpose, to which it was at all times and in all manner of

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changes invariably directed, was, to glut and satiate the most abandoned rapacity. Such a multiplicity and variety of crimes, such a chaos of indefatigable wickedness, sometimes involved in obscurity, at others audaciously regardless of detection, was never yet exhibited in the conduct of one man. You cannot repair the wrongs or retrieve the mischiefs he has done, but you may protect the natives of India from future oppression. That essential object can no way be obtained but by the punishment of Mr. Hastings. If you neglect or refuse to make an example of this great criminal, you share in his guilt, and will be answerable for the crimes and the cruelties committed hereafter in the government of India. If you are careless of the public revenue, let future governors squander it as Mr. Hastings has done. Abandon, if you will, the property of the India Company to fraud and embezzlement. Let future governors, instructed by the example and encouraged by the impunity of Mr. Hastings, disobey the orders and defy the authority of their superiors; let them violate, as he has done, the laws of their country. Dispense, if you will, with every obligation, which you can yourselves create or impose. But let it never be reproached to a British Parliament, that they have publicly pardoned and deliberately authorised a systematical violation of the first duties of humanity. You are the legislators of a people not only placed at an immense distance from the centre of your empire, but divided from you by every circumstance that constitutes separation among the nations of the world. Establish and sanctify your claim to power, whatever it may be, by the use you make of it. Take care that you protect the people, whom you pretend to govern. It is in vain to correct abuses, if no proper measures be taken to prevent them. It is not an inconsiderable object, that appears to your justice and solicits your compassion. Bengal and its dependencies, not very long before they fell under the dominion of England, formed a regular well-ordered kingdom, cultivated by industry, enriched by manufactures, adorned by arts, protected by laws, softened and civilized by manners, and moralized by religion. The people numerous in proportion to the fertility of the soil, to the mildness of the climate and to the facility of subsistence, were not a mere indiscriminate multitude of human creatures, obedient to the command, and labouring for the profit of a single master. The various ranks and orders into which that great population was divided by the ancient institutions of the country, and the relations in which those ranks and orders stood to each other, present to the mind a perfect scheme of domestic policy and civil government;—a sovereign, or the representative of a sovereign, at the summit; a splendid nobility; a venerable hierarchy; a rank of gentlemen; of yeomanry: the whole raised upon the broad, and (but for external violence) on the stable foundation of a numerous peasantry, innocent, industrious, and contented. Such was the noble fabrick, which has been crushed into a confused mass by the weight of British oppression. The structure is in ruins, but the materials remain. To restore so many millions of people to their rights, would be a glorious exercise of your power, and is in effect no less your interest than your duty. If it were possible for you to persuade yourselves, that the lands of Bengal are your property, not theirs, common prudence would instruct you to leave it, where you found it, in the hands which alone can make it productive. You may partake in the produce of their labour; but be assured it will shrink and escape from the grasp that endeavours to engross it. If motives such as these make no impression; if the creatures subject to your power have no resource in their own rights, or in your benevolence; if they have nothing to hope from compact or compassion, or even from the care of your own interest rightly understood, their lot is deplorable; their only refuge is in death.

My particular labour is at an end. An unremitting perseverance, for thirteen years together, in the same pursuit, has at last succeeded. The author of these mischiefs must be impeached. In arriving at that great public object, I have accomplished every personal purpose I ever had in view in persisting so long in this unthankful office. The reputation of general Clavering, colonel Monson, and my own, is secure. Whatever may be the fate of the question before you, the charges already voted are sufficient to show that there are public grounds, of unquestionable criminality, for the impeachment of Mr. Hastings. Your votes are my authority. The House of Commons are my compurgators. The only victory I ever aimed at is obtained. The

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only triumph which a man of honour would solicit or accept of, in such a question, is decreed. I never had a thought of succeeding to his office by driving him from it, or of sharing in the spoils of his fortune. My only personal object was, to clear my character from foul aspersion, and to establish, as I trust I have done, the integrity of my conduct in the estimation of my country.

I now move that it may be resolved, "That this committee, having considered the fifteenth Article of Charge, and examined evidence thereupon, is of opinion, that there is ground for impeaching Warren Hastings, esq. of high crimes and misdemeanors, upon the matter of the said Article."

Major *Scott* rose and said: At so late an hour it would be unpardonable in me to follow the hon. gentleman through the vast range that he has taken; I shall therefore content myself with replying to the only points that can at all affect Mr. Hastings in this charge, after having said a word or two upon the hon. gentleman's exordium. He is pleased to say, that he has been attacked in pamphlets and prints;—this is rather an extraordinary complaint from so great a pamphlet-writer as the hon. gentleman has been. The difference between him and me is, that I have generally signed my name to what I have written; but I do assure him, that if there is any anonymous publication that the hon. gentleman will state as offensive to him, I will very readily avow myself to be the author of it, provided it is one that I have written. The hon. gentleman has told you, and truly, that very soon after my arrival in England, I applied to him to know if he had written a certain pamphlet, and that he told me he did write it: but does the hon. gentleman mean, by relating this anecdote, to impress an opinion upon the minds of gentlemen in this House, that he wrote no other pamphlet since that time? [Here Mr. Francis shook his head]. If the hon. gentleman does not mean this, I know not for what purpose he mentioned the circumstance; but I affirm, upon full conviction, that he has written three pamphlets in the course of this and the last year, all since this inquiry commenced; the first, "Observations on Mr. Hastings's Narrative;" the second, "Observations on his Letter relative to Presents;" and the last, "Observations on his Defence;" upon all of which I have stated my opinion in very plain terms; and I was last year authorised to state the opinion of a noble earl, to whom one of those pamphlets was sent under a blank cover, upon the scandalous indecency of such a proceeding, pending such an inquiry: yet the hon. gentleman, who actually began this system of pamphlet-writing before I had put pen to paper, and has continued it ever since, complains of the injury that he has sustained by anonymous publications.

The hon. gentleman has, this night, as usual, been very severe upon the Court of Directors, though not one gentleman of that body was present at the time. He says they shut their doors against him on his return to England; but, Mr. St. John, they opened their purse-strings to him before he went out. They advanced him a sum of money to enable him to go out, which is a single instance of indulgence to a servant of his rank; and surely it would be but fair to set the one against the other, and then it would appear that he is under very great obligations to the Court of Directors. I shall now proceed to the charge. It is with the utmost astonishment that I see it stated in the charge, and heard it dwelt upon by the hon. gentleman, that Mr. Hastings had set up the whole nobility, &c. to public auction, and that he had deprived the zemindars of their estates. Sir, I affirm, that there is not a shadow of foundation for this charge, and the hon. gentleman knows it. Mr. Hastings did, by the orders of the Court of Directors, throughout Bengal, what had always been done throughout the province of Burdwan, and the twenty-four Pergunnahs, from the time we acquired them: he let the lands to the highest bidder. I should be very glad to ask the hon. gentleman if Mahomed Riza Khan and the resident at the Durbar did not always do the same thing annually at the Puna? If the zemindar of a district did not offer what was deemed a fair price by government, the land was regularly given in farm, and the zemindar received his moshaira, or per-centage upon the amount of the jumma. The practice has been constant; the Company themselves recommended the farming system; and why? Because they knew the flourishing state of Burdwan, where the lands had always been let in farm, and a very great part of them to Calcutta banyans; and every gentleman who knows any thing of India must know, that Burdwan, from 1765 to 1772, was a garden when

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compared to every other part of Bengal. The hon. gentleman says, the lands were let too high by the committee of circuit. I allow it; but will he consider for a moment what was the state of public affairs at the time? The Government here had compelled the Directors to pay the state 400,000*l.* annually; the proprietors insisted upon a dividend of 12 per cent; and lord Clive had rated the revenues of Bengal higher, and their expenses lower than they turned out. All these events were prior to Mr. Hastings's return to Bengal. He was instructed to increase the revenues, and to diminish the expences as much as possible: and it was his plan to raise as great a revenue from the country as he could, without injustice. Will you blame him for this? I will not follow the hon. gentleman through his detail, since I am sure the committee will neither understand him nor me; but they will understand this, which I affirm from evidence upon your table to be a fact, that after all the remissions upon the five years settlement, and after deducting all the balances also, the actual neat collections into the treasury (and all other statements must perplex and mislead) were considerably more than they have been for any five years since that period; and this is the only criterion to prove, that, after all that has been said, the settlement was a very good one.

With respect to the farms held by Cantoo Baboo, I affirm that the hon. gentleman has attempted very grossly to mislead the committee. He knows himself that Cantoo possessed many considerable talooks or estates, long before Mr. Hastings's return to Bengal, and that he was also a considerable farmer; his talooks and farms amounting to 60,000*l.* a year. He got, I believe, one in addition, because it was contiguous to his other farms, but not as a matter of favour, but because he was the highest bidder; and it is remarkable that this man has paid up every rupee of his balances; whereas the Bengal balances of the five years settlements amounted to 54 lacks of rupees. His remissions were less considerable than the average to others; and as for his investment contract, he was in possession of it before Mr. Hastings's return to Bengal, being in fact a man of considerable connexions, and of very extensive dealings as a merchant and a farmer, even before Sir Francis Sykes, to whom he was banyan, had left India. With regard to the farms of Bissenpore and Pacht, the fact is certain that they were not let to him, but to a servant of his, by Mr. Barwell and the council of Calcutta, in Mr. Hastings's absence, and without his knowledge; and Cantoo Baboo solemnly declared afterwards, that he was not himself privy to the affair till it was concluded; whether he was or not, cannot be of the smallest consequence to Mr. Hastings. The third act of favour, stated to have been shown by Mr. Hastings to Cantoo Baboo, is of so singular a nature, that I cannot but express my astonishment at the hon. gentleman's attempting to mislead the House, and in direct contradiction to a record moved for by himself, and of a business too in which he himself was a party. In July 1779, Cantoo Baboo applied for a sunnud for the zemindary of Bahurbund, being an instrument necessary to the completion of a grant, which he had acquired before Mr. Hastings arrived in Bengal: he also claimed the moshaira, or per-centage, as zemindar, stating his right to it. He also stated what had been the actual collections from the zemindary, and his account was fully confirmed by the examination of Mr. Purling before the supreme council, and by the authentic revenue record, called the Jumma Wassel Baky, which must be correct, and is confirmed by the secretary, who says that it is accurately stated. Upon this evidence the zemindary is granted; and the only difference between Mr. Hastings and Mr. Francis was, that the former was for allowing the moshaira or centage upon the jumma, and Mr. Francis was not for allowing it, and it was not allowed; so that in fact Cantoo Baboo paid for his zemindary higher than the highest of all the preceding collections. This is the evidence before the House, confirmed by Mr. Purling, confirmed by the revenue secretary who examined the record; yet the hon. gentleman, passing by these proofs that he had himself moved for, says, You have it in evidence, that three or four years after Cantoo Baboo wanted to raise 30,000*l.* a year from a zemindary, for which he only paid 10,000*l.*; and this is to be opposed to the most full and complete evidence that could be brought forward. Mr. Hastings did not give the zemindary to Cantoo Baboo; he merely passed the sunnud through the public office to complete a grant, which the man possessed before his return to India; yet the hon. gentleman would have this House

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believe, that Mr. Hastings had given his banyan 20,000*l.* a year, an assertion for which there is not a shadow of foundation.

The hon. gentleman has said much of the rights of zemindars, and here he differs from every authority that I have seen. Let him look into the reports of the committee of secrecy of 1773; he will there see that Mr. Becker, Mr. Alexander, and Mr. Verelst, three very old servants of the Company, were of a different opinion. The following are the words of the committee, from all the information they could obtain: "Your committee find, that all the lands of the provinces are considered as belonging to the Crown, or sovereign of the country, except such as are for religious or charitable purposes. Rents are paid in such proportions as is settled annually by the dewan with the several zemindars, farmers, or collectors, who rent or hold such lands. The revenues are collected by having them set either to the rajahs or zemindars, who are considered as having a sort of hereditary right, or at least a right of preference to the lease of the revenues to which they belong, or to other farmers, under the name of Izodars, and other appellations." The committee goes on, Sir, to state what I have before said, "that if Government cannot get a zemindar to come to their terms, the lands are let to a farmer," and this has been the constant practice of the country.

I now come to the abolition of the provincial councils, passing by all the intermediate events. Provincial councils have been universally condemned. The hon. gentleman condemned them as strongly as any man. Mr. Hastings, when he established them in 1773, or rather when his council did so, declared that they were to be temporary; but when the new government took place, composed of gentlemen ignorant of the language and customs of the country, Mr. Hastings thought it the best establishment. When a change had taken place again, and when the revenues were generally declining throughout the country, Mr. Hastings established them, and formed a committee of revenue nearly on his plan of 1773. And, as this seems to be the time for every man to give his opinion as to the best mode of collecting the revenues, I will run the hazard of being taxed with presumption, and will venture to give you mine, though it is in direct opposition to the opinions of lord Clive and Mr. Hastings, who both thought that no Europeans should be employed in the interior parts of the country. I think the establishment of the committee of revenue was a most wise and salutary measure, and has been attended with infinite advantages; but I think, that instead of recalling all the collectors, there should be one to every district, producing ten lacks a year; and that these gentlemen should have a per-centage on their collections, sufficient to support them, and to afford a prospect of a return to England in the course of 20 years, with a proper competency. To every thing of this kind that the hon. gentleman has said, I fully subscribe; but he knows it is the opinion of Mr. Hastings, and that, where he could, he carried that opinion with great success into practice; for instance, the committee of revenue and the salt-office. I assure the hon. gentleman that I have the highest opinion of the integrity, as well as ability, of the civil servants of Bengal. I know it is their wish to see all undue emoluments abolished; but he knows, and we all know, that in the case of the late provincial councils, when the salaries were barely sufficient to maintain them, there were some emoluments that have never yet been explained. Without saying or insinuating any thing invidious, I affirm that the decline of the revenues was a sufficient ground for abolishing the provincial councils; and the actual increase of neat receipts since that measure took place, proves the wisdom and the propriety of it. The hon. gentleman has most unfairly indeed come to issue with Mr. Hastings in this point of increase. He takes the average neat receipts of the last nine years, and proves from that, that there has been a decrease; but is that the mode to state it? He takes in the five years settlement of the committee of circuit, which he has reprobated, because it was beyond the ability of the country, and then attempts to prove that the revenues are now falling off; but if he will take the three last years of the provincial councils, which is the true way to reason, he will find there is a considerable increase of the landed revenue, independent of above half a million sterling a year from salt; and this is the only ground upon which a candid man can state it.

The hon. gentleman, after condemning the committee, has said that it is now abolished. Where did he hear this? I deny the fact. I affirm that all Mr. Hastings's regulations are at this instant in

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force, as he will see by the last revenue letters from Bengal, now in my hand. It is true that a member of the board is now the president, but that is the only alteration; and the Governor-general and Council write, that they have given them for their instruction the regulations of Feb. 1781, that is, precisely the regulations which were drawn up by Mr. Hastings.

The hon. gentleman has talked about the settlement of Bahar, and the heavy balances that have accrued; meaning to insinuate that the farming of that province was a corrupt transaction on the part of Mr. Hastings. Here again I can, fortunately, convict him of misrepresentation, by papers moved for by himself, and now before the House; for it appears that in the three years succeeding the settlement of the provincial councils, more money was collected in each year than under their management, notwithstanding the heavy balances, and that the Company in the three years settlement have received above 200,000*l.* more than they would have done, had the provincial council continued.

After all, Mr. St. John, what are we contending about, whether it is better or not to have collectors in the provinces? Nobody doubts the propriety of abolishing the provincial councils, or the wisdom of establishing a committee of revenue; but the doubt is, whether the revenues can be best administered in the districts with or without collectors? I may be very wrong in presuming to offer an opinion in this question, in opposition to lord Clive or Mr. Hastings; but, admitting I am right, shall I vote to impeach Mr. Hastings because we differ in opinion, where his knowledge must be so superior to my own? I have as good a right to offer an opinion upon this subject as the hon. gentleman, because, though no Persian, I can speak the language to the natives, which he could not do.

The hon. gentleman has said that Mr. Shore was disgusted, and quitted the Committee, leaving the management of the revenues to Mr. Crofts, or, in other words, to Gunga Govind Sing. I deny the fact most confidently. After Mr. Anderson had left Calcutta, Mr. Shore and Mr. Hastings entirely managed the revenues, and with what success I have proved from authentic documents. As to Gunga Govind Sing, I know nothing of him myself, but I have heard in Bengal that he was a very clever fellow; and I have heard he was a very great rascal. I cannot, however, help being struck by two circumstances which are greatly in his favour, the one is, that at a solemn trial before Sir Robert Chambers and the judges, Gunga Govind Sing effectually cleared himself from a charge brought against him, and brought his enemies to shame. The other, that though Mr. William Cowper, the late president of the Committee, is known to have been on very bad terms with Mr. Hastings, he actually defended this man, looking upon him as an injured man; and what is still more extraordinary, though Mr. Stables was appointed president of that Committee, Gunga Govind Sing still continues the dewan, and possesses that office, as far as I know, to this very hour; yet no one will say that he has been protected since Mr. Hastings' departure, and therefore I pay little attention to any reports to his discredit. So far from protecting Gunga Govind Sing, Mr. Hastings, Mr. Anderson, and Mr. Shore, had at one time determined to remove him; but they could not meet with another man, under all the circumstances, so able to succeed him.

The hon. gentleman has told us, that the revenues of Bengal are rapidly declining, and the country in a dreadful state. I will not believe him. I have authentic evidence of the contrary in my hand; the last revenue letter from Bengal—which states in the plainest terms the direct reverse. But as the hon. gentleman is a member of the Secret Committee, and has access to all secret papers, I am unwilling, as a proprietor of India stock, that an alarm should go forth; I therefore refer the Committee to that letter which states, that all the balances upon the last year's collections amount only to 8 lacks, 86,000 rupees, of which the Board deem nearly six recoverable; and they add, "that so near a completion of the collection of the annual rental has not been the effect of any strain upon the country at large, or on any part thereof, which is, we are convinced, well enough able to bear its present assessments."

Let this speak for the wisdom of Mr. Hastings' system. I shall not trouble the Committee with any farther remarks upon the charge, which states matter of opinion in general, and not matter of criminality.

Mr. *Pitt* expressed himself rejoiced to discover that all his necessary observations upon the subject would lie within so limited a compass as not to require him to

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take up much of the time of the Committee; and in fact, he should only call their attention to one particular point, upon which alone he thought they could with any degree of propriety concur with the motion; nor did he think, that even on that point the House would act consistently in voting the present charge, because it was included in another charge, to which the House had already assented. This circumstance was the fact of Mr. Hastings having received presents from Kelleram and Cullian Sing on the settlement made with the zemindars, farmers, and collectors, in 1781. The House, therefore, having voted a specific article on that head, he should by no means vote another merely on the same ground, and he was perfectly satisfied that there was no other foundation for a criminal charge against Mr. Hastings in the article which the hon. gentleman had opened; except that which he had now stated—the accepting of presents. Still, if it could be made appear that the charge, as it stood, would tend to throw any fresh light upon the receipt of the presents—would establish it more strongly in point of fact, or elucidate and prove the guilt of the transaction more forcibly—he should then be ready and willing to give the motion his hearty support. As to the other matters contained in the charge, he either looked upon them as not criminal, or, if criminal, as not sufficiently proved, or capable of being substantiated at the bar of the other House.

Mr. Pitt now discussed the nature of the charge, adverting to each separate article on which Mr. Francis had grounded his argument with respect to the corrupt or improvident management of the revenues of India, and the oppression which had been imputed to Mr. Hastings in the execution of that part of his office. In the first place he said, that although he agreed with him in most of his general principles on the subject of the tenures of the zemindars, yet he by no means concurred in his opinion, that, however reasonable and politic they might appear, they were so fully and clearly established in the practice of the Hindostan governments, as to make a particular departure from them so highly and so evidently criminal, as to justify that House in founding upon it an article of impeachment. However permanent the tenure, and however well established the hereditary descent of zemindaries might have been in the more remote, and perhaps the more happy periods of the history of Hindostan; however politic it might be, for the purpose of population and cultivation, that they should remain in this predicament, yet he by no means considered it as a principle admitted and recognized, that they actually were so at this day, because they had in fact undergone many changes; and so far the contrary principle was in some measure established.—As the criminality of Mr. Hastings' conduct, in respect to his dispossessing the zemindars, turned upon a question which concerned the tenures of those persons, and as that question was subject to a variety of opinions, and any inquiry into it would probably prove tedious, difficult, and uncertain in the extreme; nay, as it might be found absolutely endless and impracticable, he thought it by no means a judicious proceeding in that House to send up such matter; which, however of a questionable nature, was not yet likely to add to the weight, or to contribute to the success of their undertaking. With regard to the grants of farms to Cantoo Baboo, that circumstance had furnished the hon. gentleman with one of his chief topics of accusation against Mr. Hastings; but it by no means appeared to him in a criminal light: he highly approved of the orders of the directors, that no banyan or other dependant of a collector should be appointed to a farm; he also thought that the spirit of that regulation extended to persons in the situation of Cantoo Baboo, though certainly the letter of it did not include him; but still, even if it had been expressly forbidden, Mr. Hastings was not answerable for the appointment, because he had been in the situation of a farmer of revenues before the commencement of Mr. Hastings's government. The hon. gentleman had made it a matter of charge against Mr. Hastings, that some of the farms were of a larger value than was limited by the order of the Company to each farmer; that they exceeded one lack of rupees. But on this it was to be observed, that although the general order was to that effect, yet a certain degree of discretion must be left to the government of India on account of the difficulty and loss which, in many cases, it appeared would attend the dividing of lands. Besides, a latitude was expressly allowed in favour of persons of responsibility; and certainly to the responsibility of Cantoo Baboo, in point of pecuniary considera-

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tion, no objection could be made. Another circumstance attending this transaction had been described as criminal; and this was the abatement which, after the statement of two years, had been made in the payments of Cantoo Baboo, and which had been imputed to have been done with a corrupt intention in favour of Mr. Hastings's servant: but he considered that circumstance in a very different light; for it appeared that the abatement had been general throughout all the provinces, and it amounted to 2,500,000*l.* which was about one tenth of the whole; whereas the abatement of Cantoo Baboo had been only of about one twelfth part, so that it was impossible to discover any thing like corruption or unfair partiality in the transaction. But at all events, although in general the making a very beneficial grant to a confidential servant might be considered as suspicious, yet there was no room for any such suspicion in the present case, because the grant to Cantoo Baboo was by no means a beneficial grant; on the contrary, he felt it expedient to resign it, finding it not so productive as he was entitled to expect. With respect to the grant of the zemindary of Baharbund, the hon. major had clearly shown that it was not to be laid to Mr. Hastings's charge as a crime; for it was evident that the patent for that territory had been granted during his absence; and it appeared that Cantoo Baboo had given the highest rent for it which could be obtained or expected, and that at a fair public auction.

Mr. Pitt next spoke of the various changes made by Mr. Hastings in the financial system. He said, that though he should not attempt expressly to vindicate the variable and inconstant disposition which might have given rise to the introduction of any changes; yet he must contend, from the unsettled state of those provinces and the uncommon difficulties of his situation at the time, that the mere fact of changing could by no means be looked upon as a crime, unless there were circumstances of unfair and corrupt motives apparent. The hon. gentleman had laid much blame to Mr. Hastings for ceasing to proceed at law against the members of the committee of circuit, as he had been ordered by the Directors; but the circumstances of that affair would fully justify him. The Company's advocate general, sir John Day, had given it as his opinion, that it was a matter of great doubt, whether the Company would be able to recover at all, and if it did, it was precarious whether any thing considerable could be obtained from the parties, particularly as the principal person among them, Mr. Barwell, was out of the jurisdiction of the court of Bengal; and surely the opinion of the first law officer of the government was fully sufficient to warrant Mr. Hastings's conduct. But, exclusive of this circumstance, it was also to be observed, that Mr. Barwell had declared that he would abide by the judgment of the Directors themselves, and whatever they thought reasonable, he would on his return to England voluntarily refund. In such circumstances, it was evidently more advisable to suspend the proceedings in India, and leave the matter to a less uncertain and tedious issue. As to the opinion of the Court of Directors on the subject of the deficiency of the revenues, he admitted, that to compare the last year of Mr. Hastings's administration with an average of the nine years preceding, was by no means a fair method; nor was the naked fact of such a deficiency, unless it could be proved to proceed from actual mismanagement, a sufficient ground for a criminal prosecution. But a circumstance had fallen from the hon. gentleman, which, though not directly a part of the charge, was yet of the highest importance, and required an immediate answer; this was, his statement that the defalcation in the revenues of Bengal and the other provinces had been progressive and increasing since the period of Mr. Hastings's government. To this statement he must give a most decisive contradiction; for the fact was directly the reverse; the revenues of those provinces were in a most flourishing and promising state, nor could he conceive where the hon. gentleman could have found documents which had the effect of imposing upon him so grossly as to induce him to venture on so unfounded an assertion. He confessed that he suspected many faults had been committed in that department, which he apprehended would be found highly deserving of punishment; but upon the whole, notwithstanding such faults, our revenues in India wore a most flattering aspect. He concluded by observing, that, not seeing any thing criminal in the charge, except in that part of it which mentioned the receipt of presents, he could not give his assent to the motion, unless it should be explained to him, that some part of the charge had a tendency to

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establish and elucidate that particular misdemeanor in a better manner than could be done without it.

. Mr. *Fox* remarked, that the right hon. gentleman, when arguing upon the subject of the impeachment of Mr. Hastings, had been so much in the habit of agreeing with him of late, that he would not suppose that any but the purest motive could induce him to differ at all in opinion from his hon. friend on the subject of the present charge; but, nevertheless, he could not suppress his extreme astonishment that the right hon. gentleman should lay out of the scale of preponderating criminality that matter, which in his mind, above all others, weighed most against Mr. Hastings:—the having at once seized upon all the lands, the undoubted property of the zemindars, dispossessed them of their ancient inheritance, and put their possessions up to auction. Such an action of tyranny was unexampled, he would venture to say, in any government, at any period, under any circumstances. So broad, so glaring, so intolerable an act of violence struck him from the first moment that he heard any thing of the charge, as the most distinguishing feature, as that feature which must flash conviction upon the mind of every man who had a spark of humanity in his breast, that he had all along conceived there would not have been a moment's hesitation in any one member of the committee; but that the instant the fact was stated, the common feelings of all who heard it, would have risen in unison, and that they should have unanimously voted, that the charge contained matter of the deepest guilt, the most atrocious criminality. The right hon. gentleman had said, that his hon. friend had assumed the fact, that a zemindar was the heritable proprietor of his lands. Surely his hon. friend had done a great deal more than assume it; he had proved it to the general conviction of the committee; not proved it by specific proof indeed, but by accompanying his statement of the fact, with reasons and arguments naturally arising from it; reasons and arguments undeniable in themselves, and such as must impress conviction, that the zemindar was the undoubted proprietor of his lands, and not a mere collector of the revenue. But so obnoxious to condemnation had been the conduct of Mr. Hastings in this particular, that, even granting for a moment that it was legal to resume the lands of a zemindar, and put them up to auction, still he should contend, that the resuming all the lands of all the zemindars at once, and putting them all up to auction, was an act of such unjustifiable violence, so shameful an exercise of power, that the government that practised it, could not but fall into disgrace in the eyes of all mankind; and that the individual, be his rank what it might, his station ever so eminent, would, in any country, and almost under any form of government, be thought deserving of condign punishment.

Mr. Fox said, that even were the cold excuse of its being legal to resume the lands of a zemindar, and that a zemindar was no more than an officer of government, tenable, Mr. Hastings, of all men, had no pretence to avail himself of such a plea, since he had declared, in the most explicit terms, that he entertained a contrary opinion. Mr. Fox read part of a public letter from Mr. Hastings to the Directors, in which he stated his full conviction, "that zemindars were the proprietors, that they could not be removed, and that the lands were their estates and their inheritance." He declared that it was unnecessary for him to say any more than merely to take notice of the one point in which the right hon. gentleman agreed; that the accepting a present from Kelleram and Cullian Sing was highly criminal. He coincided fully with the right hon. gentleman in this particular, and stated his reasons for this similarity of sentiment. With regard to the rest of the facts alleged in the charge, he agreed with his hon. friend who had opened it. They were all features of the same countenance; indexes of the same mind. And if it could be proved that Mr. Hastings had changed the mode of collection of the revenues of Bengal, so many times within so few years, without any corrupt motive, but merely through the mutability of his mind, he should think that it was acting in a great and important situation with a degree of levity highly censurable, and that it ought to excite the indignation of that House. Mr. Fox resorted once more to the general confiscation of the zemindars' property, which he again held up as an instance of the blackest tyranny, and as of itself sufficient not only to justify that House in moving an impeachment, but to render it a matter of disgrace to them if they did not support the motion. He agreed that it was wrong and impolitic to load a proceeding so serious as a parlia-

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mentary prosecution with light or frivolous matter, but he could not agree to hold an act of such violence in that light. Let the law therefore be with Mr. Hastings or against him, he would not consent to consider the turning a whole and distinguished race of people adrift as a mere venal error of judgment.

Mr. *Pitt* read the paragraph from the letter referred to by Mr. Fox, which appeared to be a letter from the Governor and Council, and not from Mr. Hastings particularly; and contended that so far from the council recognizing the indefeasible right of possession and inheritance of the zemindars, every letter gave an account of some of their lands having been actually set up to auction.

Mr. *Boughton Rouse* said, that, as he had been particularly called upon by the hon. mover, and as he thought the question relating to the zemindars had been rather overcharged in order to enhance the criminality of Mr. Hastings in letting their lands to farm, he could not let the business pass without submitting his opinions to the committee. As to the zemindars of Bengal, he declared that he then was, and always had been, a strenuous advocate for them; that he thought it would be good policy in Great Britain to consider them as hereditary landholders and proprietors, and to receive the revenues of Bengal through their agency, as the mode that would tend most to the quiet and happiness of the natives, and prosperity of the country. But with regard to the origin of the zemindars, he said he had always entertained doubts, which he had upon a former occasion communicated to the hon. gentleman himself, whether they were in their constitution hereditary, although they had certainly become so by the usage of Bengal:—that the word itself, being Persian, was certainly of modern introduction, and therefore could not be known to the ancient law books of the Hindoos. He said there was an official jurisdiction vested in the zemindars by royal patent, the first commencement of which he thought might be within a hundred years. This zemindary he conceived to have been originally instituted by the Mogul government, for securing the revenue, and preserving the policy of the country; and to have been conferred at the free will of the prince, or superadded to the previous right of possession, until, by successive confirmations in the same family, it has grown to be regarded as a general descriptive term for an hereditary tenure of land. He had always considered the letting their lands to strangers upon a lease of five years to be an impolitic and pernicious measure in the Bengal administration. Nevertheless, he could not see the propriety of charging Mr. Hastings with gross criminality in the transaction, unless there were circumstances coupled with it, that could show him to have acted from corrupt motives. Mr. Rouse did not admit, that the revenue of a zemindar could strictly be stated to be an unalterable revenue; and agreed, that every sovereign power must possess the right, to be exercised or not as policy may direct, of ascertaining the actual value of the land within its dominion, and determining the rate of revenue which it shall pay to the state. What was now the standard rate of that assessment in Bengal, or whether there was any universal standard, he had never been able to learn either from books or inquiry. But he understood, that in the province of Bahar the established profit or claim of the zemindar was to one tenth only of the produce. Mr. Hastings and his council entertained an opinion, that government had a right to the full produce of the lands, upon allowing a compensation to the zemindars, and openly acted upon it. His predecessors had done so before him—the districts of Burdwan and Kistagar had been let in farm, and measures had been taken to ascertain the gross produce of all the lands of Bengal; yet no charge had been laid against the humanity or integrity of Mr. Verelst, the governor who authorised these proceedings. He repeated his declaration, that he thought the measures pursued by the committee of circuit had been wrong in principle, and fallacious in their effect; but he could not see reasons to pronounce Mr. Hastings criminal, for having acted upon this or that system, in a matter, upon which undoubtedly two opinions prevailed. Mr. Hastings's recall of the provincial councils was certainly a measure taken without authority; but the delegation of a part of the power of the governor general and council to a controlling committee at the presidency, he conceived not to be either illegal or impolitic. A similar plan had been pursued at Madras, by lord Macartney, with great success, and much to the honour of the gentlemen employed upon that duty; and in his opinion the reduced number of the supreme council, and the multiplied duties

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of their office rendered it necessary to continue that mode of administering the Bengal revenues. Upon the whole, Mr. Rouse was against the motion.

Mr. *Burke* said, that he had heard of a man who pretended to teach the art of memory, and had boasted of his faculty to a sage; upon which the sage had desired him to try to teach him the art of oblivion. After what he had heard, such an exercise of art must operate most effectually upon him, before there could be wiped from the tablets of his memory those traces of information respecting the manners and customs of India, which he had drawn from the sources of the hon. and learned gentleman,—learned, undoubtedly in the history of the affairs of India,—who had spoken last. He had lately, as a member of the committee, had his memory refreshed by a reference to the records of that information which the hon. gentleman had communicated to the Select Committee, of which he had then the honour to be a member, so much to their advantage; and among the records to which he had alluded, there was to be found a very different account of the zemindars, from that just given by the hon. gentleman. Mr. Burke read, from one of the volumes furnished to the House by the Committee, the examination and answers of William Boughton Rouse, esq. on the nature of that description of Hindoos called zemindars. After accompanying the information which this extract afforded with some compliments to Mr. Rouse, as an authority not to be lightly disputed, and as a gentleman who had originally established the doctrine contended for in the present moment, Mr. Burke said that he should do away all doubt of what he had conceived to be the corrupt motives of Mr. Hastings, and then read an allegorical application made by Mr. George Bright, a member of council, to Mr. Hastings, desiring to be sent down to Rohilcund or any other place, as a collector of revenue. Mr. Bright declared, in his letter, that he heard there was much game there, that he was a great lover of the sport, and that he knew the Governor-general loved game, and would not discourage his poaching, as he knew he would take care to give as good an account of it as any black sportsman in Hindostan. The meaning of the allegory (Mr. Burke remarked) was grossly obvious, and it followed that Mr. Hastings considered it as an insult, and displaced Mr. Bright. He reasoned upon this letter and its consequences, and said, that upon the first hearing of the transaction a common man would imagine Mr. Hastings had never received the bribe, which Mr. Bright, in the former part of his letter, insinuated that he had taken; but the fact was, although he punished Mr. Bright, and turned him out to wander like a vagabond on the face of the earth, he had actually accepted the bribe in question.

Mr. *Barwell* observed, that as Mr. Burke had introduced his name, he could not avoid expressing an earnest desire that if there was any charge against him which he had not answered, it might be urged; and he would meet the accusation in that House, or any where else in the most explicit manner.

Mr. *Burke* answered, that he did not mean to bring forward a charge against the hon. gentleman, as his hands were sufficiently full already; but if the hon. gentleman was really anxious to be accused, he would, when at full leisure, apply himself to the subject; for if he were compelled to speak the truth, he must say that he did not think the whole of the hon. gentleman's conduct, while in India, unobjectionable.

The question being put, the Committee divided on Mr. Francis's motion: Yeas, 71; Noes, *55*.

Debate in the Commons on the Ecclesiastical Courts Bill.] April 20. The House being in a committee on the Bill to prevent frivolous and vexatious suits in Ecclesiastical Courts,

The *Master of the Rolls* proposed, that the blank for the day after which prosecutions in the Ecclesiastical Courts should not be commenced, be filled with the words "two years." Two years, he said, were allowed in the courts of common law for persons to bring their actions in cases of slander, and he saw no reason why the same should not be granted to prosecutors for defamation in the ecclesiastical court.

Mr. *Bastard* said, that with his consent, instead of persons being allowed six months (as the blank stood filled up by the former committee) to institute their prosecutions in the ecclesiastical courts for defamation, the power of prosecuting in that court for defamation should be abolished altogether, because no person unjustly prosecuted in that court could obtain any

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remedy. Neither was there any punishment: for, what was doing penance? It was merely going to church in a masquerade dress, which not one in ten cared two-pence about. In the ecclesiastical courts truth was changed to falsehood, and falsehood to truth: for if a person rightly and justly called a woman what perhaps she was, that person was to do penance, if he would not consent to tell a lie, and unsay the accusation; if, on the other hand, he had falsely accused a woman, and she ought to have the recompence of putting him to shame, he had nothing to do but to tell the truth, say she was an honest woman, and escape disgrace. All prosecutions in the ecclesiastical courts were malicious; and therefore a process of that vexatious sort ought to be put an end to. But the learned Master of the Rolls had changed his ground since he had last spoken on the subject. Unless he could be satisfied, that what he had stated, as to a person unjustly prosecuted in the ecclesiastical court having no remedy against his malicious prosecutor, was ill-founded, he should persist in the words "six months" standing part of the Bill.

The *Master of the Rolls* repeated his argument, that there were instances of defamation more wounding to an honourable and feeling mind, than the vilest slander. If a man of the most respectable character were charged by a foul tongue, with having committed incest with his daughter or sister, he had no remedy but in the ecclesiastical court; and would any man say such an injury ought to exist in possibility without a remedy? As two years were allowed for persons to bring their actions at common law in cases of slander, he thought that justice required the same time should be allowed prosecutors in the ecclesiastical court.

Mr. *John Scott* contended, that the accusations against the ecclesiastical court were phantoms of the brain, mere children of the imagination. The court was an ancient, and, in many respects, an useful establishment: he saw, therefore, no reason to abolish it, unless some good ground could be stated for such a procedure. From the argument of the hon. gentleman, he should have imagined that so far from meaning to complain of the extravagant powers of the ecclesiastical court, he intended to have strengthened them and rendered them more effectual. The distinctions taken between defamation and scandal by lawyers were enough to draw the profession into contempt. The very first law book he had taken down that day to look at the actionable cases, furnished him with instances of the decisions of grave and sage judges, enough to make lawyers ashamed of themselves. He then produced a paper, from whence he read several very extraordinary cases. One was a case of a man's saying that another man had been guilty of murder; that was deemed actionable, because murder was a felony; but if he had only said, that he cut his head down with a cleaver, so that one cheek lay on one shoulder and the other on the other, that was not actionable; there being no imputation of felony. Again, if a man said another stole privately, it was actionable; but if he only said he stole by the way side, it was not so, because a man might take an apple or a stick, neither of which was a felonious taking. If a person said a woman had the French disease, it was actionable, because it conveyed a meaning of an injurious tendency; but if a person said of a woman that she had lately had the French disease, it was not actionable, because it implied that she had it not at the time, but was cured. Again, by a peculiar locality of law, if a man called a woman a whore in London or Southwark, it was actionable; but not if he called a woman a whore any where else. If a man in Yorkshire said, a man had strained a mare, it was actionable, though not so in any other county; as if the words, "straining a mare," carried a different import in Yorkshire to what they did in any other county. Numberless other precedents of decision had been pronounced by the wisdom of our judges, equally singular, and equally ludicrous; but, Mr. Scott said, he wished to draw the serious attention of the House to the bad consequences of abolishing or limiting the powers of the ecclesiastical court. He put a case, that a young lady, on the eve almost of marriage to a good and honourable man, was to be so far slandered as to have it reported that she was big with a bastard; the consequence might be, the match would break off, and the young lady could never hope to have another offer; nay she must even shut herself up and never show her face again. In that case, was there a jury in the kingdom who would hesitate to give large damages? Look at the other side of the question, and suppose the same slander said of a

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young woman not on the eve of marriage. In that case no action would lie, and yet the woman's character and hopes of marriage were blasted and gone for ever. With regard to the period of limiting the bringing of the suit, he should propose a twelvemonth, and that because upon inquiry he found it to be the time already established in the court.

Mr. *Rolle* supported the Bill, and complained that the learned gentlemen had waited till almost the last moment before they made any opposition.

The *Attorney General* said, that as unfortunately no gentleman belonging to the ecclesiastical court at present enjoyed a seat within the House, it behoved all those who belonged to the same profession as himself, to stand up and defend a court of law, though of a very different constitution and nature from those with which they were connected. He put some cases, and argued upon them as proofs of the necessity of continuing the existence of the ecclesiastical courts. With regard to there being no remedy to a person wrongly accused, what remedy was there in the case of an assault, charged against any man? As to penance, it was a degree of shame and infamy, sufficient to deter those inclined to be busy with their neighbours fame, to keep a guard upon their speech.

Mr. *Fox* said, that the learned gentleman had really put the matter upon a very handsome footing. It was, then, merely because there happened to be no civilian in that House, that he was so anxious to support the ecclesiastical court! In their extreme ardour for the honour of the lawyers of the ecclesiastical courts, he and his learned brethren seemed entirely to have lost sight of the honour of their own; for a more degrading attack on the learned profession he had scarcely ever heard. The hon. gentleman who moved the Bill, had more than once called upon learned gentlemen to reply to the objections he made to the ecclesiastical courts, and amidst all their arguments, not one syllable had been offered like an answer.

Mr. *Courtenay* said, that he could not account for the extreme civility of the learned gentlemen. They seemed, for a time, to have given up the law of England out of complaisance to the ecclesiastical courts. The highest reverence was due to the law of England. Lord Coke declared, when he was first made a brother of the coif, that a serjeant's cap had four typical corners to it, one the symbol of experience, another of observation, a third of wisdom, and a fourth of commemoration. Mr. Courtenay attempted to account for the gentlemen of the long robe letting the law of England fall to support the law of the ecclesiastical courts, and said, he supposed she was more swelling, and had more of the cork rump than the other. He agreed that it would be extremely wrong to destroy the whole of the ecclesiastical law, and therefore he thought it would be wise and salutary to let it remain an express part of that law, "that no man should marry his grandmother." The learned gentlemen had spoken so warmly in favour of suits for defamation in the ecclesiastical courts, that he should not be surprized if they were to prosecute one another in the ecclesiastical court for defamation against the law of England. He should vote for the six months, though he had rather the ecclesiastical court was entirely abolished; not, indeed, that he felt himself unwilling to let those courts have cognizance of adultery and fornication, which the priests had always arrogated to themselves, and of which perhaps they were so competent to judge, from their frequent practice. Six months appeared, in his opinion, quite sufficient to enable them to investigate all charges of scandal; nor did he see how any longer time could be required to give an account of words uttered, unless in Iceland, where the breath might be frozen in November, and not thawed before the July following.

The *Master of the Rolls* said, that a question of so grave a nature was not to be lost sight of amidst wanton jests, and endeavours to make laughter take the place of sober sense and solid reason. It was necessary for gentlemen to know something of the law as it stood, before they ventured to alter it. Legislation was a task, to which he by no means thought himself equal, nor would he presume to blurt out his crude ideas of legislation there, lest they should fail of success.

Sir *James Johnstone* condemned the ecclesiastical courts, and all courts but courts where a trial by jury prevailed.

Mr. *Bearcroft* said, he wished to put an end to the debate, since it appeared to him that they were contending for nothing. What was six months, when the author of the Bill said, that there was no punishment in the ecclesiastical courts? What did it signify then, whether it was six or twelve months before any person

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was prosecuted in a court in which he could not be punished? As doing penance was declared to be nothing more than going to a masquerade, he supposed the sheet was to be considered as a domino: to borrow a joke, therefore, from a good old jester, Rabelais, "Beati sunt, qui moriuntur in Domino." Mr. Bearcroft said, the members of his profession might as well leave it to others to find fault, and point out their foibles. With regard to their standing up for the ecclesiastical courts, in that they acted disinterestedly at least, for those were courts in which not one of them ever practised. Some sharp observations had been made upon his profession; but they gave him no concern whatever: for it was an old saying, that "the cursed fox thrives."

Sir *W. Dolben* spoke against the Bill, and in favour of the twelvemonth being allowed.

The committee divided on the question, that the words "six months," stand part of the Bill: Yeas, 91; Noes, 57.

Prince of Wales's Debts.] Alderman *Newnham* said, he wished to put a question to the Chancellor of the Exchequer which materially concerned the Prince of Wales, and desired to assure him, that it did not arise from personal curiosity, but that he intended upon what might probably be his answer to ground a parliamentary proceeding. It was, whether it was the design of Ministers to bring forward any proposition to rescue the Prince of Wales from his present very embarrassed situation? for though he thought that his conduct during his difficulties had reflected greater honour and glory on his character than the most splendid diadem in Europe had upon the wearer of it, yet it must be very disagreeable to his Royal Highness to be deprived of those comforts and enjoyments, which so properly belonged to his high rank. It would be an indelible disgrace upon the country, if the situation and income of this exalted personage were any longer to remain so meanly circumscribed.

Mr. *Pitt* answered, that as it was not his duty to bring forward a subject of such a nature as that suggested by the hon. gentleman, except at the command of his Majesty; it was not necessary for him to say more in reply to the question, than that he had not been honoured with such a command.

Alderman *Newnham* then gave notice, that he should, on the 4th of May, bring forward a motion for the consideration of the House respecting his royal highness the Prince of Wales.

Debate on the Budget.] The House having resolved itself into a Committee of Ways and Means,

Mr. Chancellor *Pitt* remarked, that it was with no small degree of pleasure, that he assured the House, that he should not be under the necessity of trespassing for a great length of time upon their patience whilst he submitted to their consideration some necessary particulars. It was a matter of much satisfaction to him, that he had such an account to lay before them of the state of our finances as would show that the promising picture which he had on former occasions described to them, was by no means flattering or exaggerated. The services of the current year would be discovered to be amply provided for, although it had not yet been found practicable to reduce many of our most expensive departments to the level of what might have been expected, and what a select committee in the course of the preceding session had described a proper permanent peace establishment. At the same time, the plan for the diminution of the national debt had been strictly adhered to, and the several quarterly payments of 250,000*l.* for that purpose had been regularly made good. Mr. Pitt then went through the several articles of supply which had already been voted, and those which remained to be voted, stating first, that there had been voted for 18,000 seamen 936,000*l.*; for the ordinary of the navy 700,000*l.*; for the extraordinary 650,000*l.*; making the whole of the navy service 2,286,000*l.* This was considerably more than the estimate formed by the finance committee last year, which was 1,800,000*l.*, so that, in this establishment, there was an excess of 486,000*l.* beyond what might be expected as the permanent expense of it in future times of peace.

For the army had been voted 1,411,069*l.*; for the army extraordinaries, as staff, guards, garrisons, &c. 420,000*l.*; making 1,831,069*l.* The permanent peace establishment of this service had been estimated by the committee at 1,600,000*l.* So that there was an excess of 231,069*l.* Under this head had also been added a sum of about 50,000*l.* for victualling the loyalists in their new settlements in Nova Scotia.

The ordnance had been voted at

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328,557*l.*, which was rather short of the estimate made on that branch of the service by the committee. The amount of miscellaneous services was about 328,000*l.*, and other particular services of a miscellaneous nature, though not usually classed under that head, as for making roads in Scotland, improvements of a similar nature in Nova Scotia, the British Museum, &c. amounted to about 96,000*l.* There was another head of supply, which, for the last time, it would be necessary to vote this year, and this was, to make good the deficiencies in the several appropriated funds. Having stated the nature of those deficiencies, and how they arose out of the old system of appropriations, under which each particular tax or object of revenue being appropriated to the payment of one or more particular annuities, was estimated at a fixed sum adequate to those annuities; and having remarked that, if the fund arising from that tax did not amount to the sum at which it was estimated, the deficiency was supplied out of the Sinking Fund, which was composed of the redundance of other appropriated funds, and was a counter security for them all; Mr. Pitt added, that such an article of supply would never be brought before that House again, after the Bill now under the consideration of the Lords, for the consolidation of the customs, should be passed; for by that Bill, all such appropriations were to be abolished, and the whole mass of the revenue thrown into one general fund. He mentioned particularly the several branches of the revenue in which those deficiencies had arisen, and the general amount of them, which, including the other articles of supply, amounted to the sum of 6,676,000*l.*

Mr. Pitt next proceeded to state what the ways and means were, out of which this sum was to be furnished. Under this head he enumerated the land and malt tax, which he estimated at 2,750,000*l.* the surplus of the Sinking Fund up to the 5th of April 1787, amounting to 1,226,000*l.* a payment to be made by the East-India Company, which he stated at something short of 400,000*l.* A part of the balances due on army accounts and imprest money made another item in the calculation, which he stated at 240,000*l.* Of this 60,000*l.* had been already actually received, and of the remainder a considerable part had been admitted by the accountants themselves; so that it was more likely to turn out to be a narrow than an exaggerated statement. The whole of the money ascertained to be due and payable on this score was about 380,000*l.* but he would only calculate upon the receipt of 180,000*l.* which, together with the 60,000*l.* already received, would amount to 240,000*l.* Some increase of revenue would necessarily arise from the operation of the consolidation act, which, together with the duty to be paid upon the article of cambrics, which was now to be legalized, but which had hitherto been monopolized by the smuggler, he should set down at 100,000*l.* There had, he observed, been an uncommon falling-off in the receipts of the customs for the last year, which was a circumstance that could easily be accounted for upon such principles as would clearly show that it was not to be feared that such a defalcation would be permanent; on the contrary, it was fair to conclude, that, so far from continuing at the standard of the last year, our revenue of customs would experience an uncommon spring in the current year, even greater than it could be expected would be lasting. One cause of this falling-off was the uncommon badness of the last season in the West Indies, which had materially reduced the importation of our colony produce, insomuch that, in the single article of sugar, there was a deficiency of 350,000*l.* Added to this, it was to be considered what a general suspension of commercial speculation must have followed from the pending state of so many treaties of commerce with foreign nations. Such a circumstance must necessarily have given a temporary check to importation, because, until there was some certainty as to the event and tendency of those negociations and treaties, all foreign trade must have been exposed to a degree of risk and danger. But those two circumstances no longer continued to operate; for the present season in the West Indies promised to be the most productive of any which we had almost ever known, which would, of course, occasion an increased importation; and our foreign commerce being no longer obstructed by the unsettled state of our intercourse with other nations, and many new and extensive markets being opened for it, would necessarily return again with that spring and elasticity which always succeeded restraint.

Mr. Pitt stated farther, that large sums had been received into the Exchequer, on account of several appropriated funds; the annuities charged upon which were

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not payable until the end of the half year, and of course, as all appropriations were to be abolished by the new arrangement, and the several charges upon them to be referred to the general fund in which the whole revenue was to be consolidated, there could, after the Consolidation Bill should have passed, be no objection to applying these sums to the immediate calls of the state, referring the payment of the annuities, with which they were now charged, to the receipts of the general fund. The whole of these resources taken together amounted to 6,767,000*l.* from which, deducting 6,676,000*l.* the expense of the service of the year, there remained a surplus of 91,000*l.*—There was, besides, another article, which it was usual to state on each side of the account, both as an article of supply and as an article of ways and means. This was, the article of Exchequer-bills, of which there were 5,000,000*l.*; these were in general annually renewed; but it was intended to alter the usual mode of renewing them, with respect to a part of those which the Bank held. The whole amount of those which were in the hands of that company was 2,000,000*l.* of which it was proposed to make 500,000*l.* on a new plan, such as should be convertible into cash in any week, or on any day of the year; and this was by making them to bear an interest of 2½*d.* per pound per diem, which was at the rate of between 3½ and 3¾ per cent. per annum. The remaining 1,500,000*l.* in the hands of the Bank, together with such other Exchequer-bills as were held by other proprietors, to continue on the old footing, and bear an annual interest of 3½ per cent.

Mr. Pitt said, he should not dwell much upon the regulations already adopted for the prevention of smuggling, nor of those which had been applied to the frauds in the article of wine, or in the home distillery, all of which he expected would turn out highly beneficial and salutary; nor would he take into the present account the probable amount of the additional licences for retailing of spirits, that being a measure calculated partly for the purpose of compensating and obviating the reduction which was to take place in the duty on spirits, and partly to restrain a too great consumption of that commodity, rather than with a view to revenue. On the present occasion, he could not, with propriety, make any motion concerning this last article; the Consolidation Bill, out of which it rose, being not yet passed; nor could he include the sums of money which he had stated to have been received into the Exchequer on account of appropriated funds; because it would be irregular to violate the appropriation, before a proper substitute had been established and completed. He then moved, "That, towards making good the supply granted to his Majesty, there be issued and applied the sum of 1,226,472*l.* 2*s.* 11½*d.*, remaining in the Exchequer on the 5th day of April, 1787, of the surplus of the Sinking Fund, subject to the disposition of Parliament."

Mr. *Sheridan* begged leave to remind the right hon. gentleman that he had not fulfilled his promise, to give such an account of the finances as should afford perfect and complete satisfaction to the committee; but he had certainly fulfilled his promise of brevity; for he had been so extremely concise, that though he (Mr. Pitt), who was acquainted with all the grounds and circumstances to which the facts and figures which he had stated referred, could talk with familiarity and ease upon the subject without any farther explanation than that he had thought proper to give it; yet such brevity was rather an awkward circumstance to him, and those who, like him, were to answer and speak after the right hon. gentleman. He thought the air of triumph assumed by the right hon. gentleman sat but awkwardly upon him, at a moment when another sort of demeanour would have better become the humiliating and mortifying situation in which he ought to feel himself when obliged to come forward and state the finances of the kingdom to be in so very different a condition from that in which the committee had last year been so confidently assured they would prove to be in 1787. The right hon. gentleman, and those who sat near him, would recollect the statement contained in the Report of the Revenue Committee, and the manner in which it was contradicted when he advised them not to be too sanguine in their expectations, that, because the year's receipt ending Jan. 5, 1786, amounted to 15,397,471*l.* the year ending Jan. 5, 1787, would turn out equally productive. He had, again and again, argued the fallacy of making out an account in such a way; but what he said upon the subject had been rejected with a sort of unbecoming scorn. What he predicted had, however, proved true; for now, instead of the flattering prospect which the right hon.

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gentleman held out of our income equalling our expense, it was evident that the receipt of the last year fell 900,000*l.* short of the receipt of the year ending Jan. 5, 1786. He warned the Committee, therefore, against giving way to a delusion which might lull them into a dangerous inattention to the national circumstances; declaring that it was much more manly in ministers to state the real situation of the country, to look it in the face, and, if more taxes were really necessary, to lay them on, burdened as the people were already. He declared his concern to hear the East-India Company mentioned as a source of the right hon. gentleman's expectations, and that to so large an amount as 350,000*l.* That circumstance alone was sufficient to fill his mind with great doubt and suspicion of the soundness of all the various expectations which the right hon. gentleman had that day stated to the Committee.

Mr. *Grenville* observed that he felt it more than difficult to refrain from silence whilst he heard the hon. gentleman repeating arguments which had already been answered and refuted. For his own part, he should not hesitate positively to declare, that there was no fallacy in the Report of the Revenue Committee, nor any delusion either in making up the abstract table of receipt and expenditure, nor in the observations which the Report contained. Mr. Grenville then read the following extract: —"But before they enter on the first part of their Report, they think it necessary to premise, that they have confined their examination to the present state of the Revenue, as it appears either from the amount actually received in the periods contained in the papers referred to them, or from the best estimates which they could form of the produce of such articles as had not been brought to account in those periods, but compose, nevertheless, a part of the present income of the public. The large amount of taxes imposed since the commencement of the late war, in addition to the then subsisting Revenue, the difficulties under which the different branches of our commerce laboured during the continuance of that war; and the great and increasing prevalence of smuggling previous to the measures recently adopted for its suppression, appeared to your Committee to render any averages of the amount of the Revenue in former periods in a great degree inapplicable to the present situation of the country; on the other hand, they did not think themselves competent to discuss the various contingencies which may in future operate to the increase or diminution of the public income. A Revenue so complicated in its nature, and depending so much on the various branches of an extensive commerce, must always be liable to temporary fluctuations, even although no circumstances should arise to occasion any permanent alteration in its produce. Your Committee have, therefore, judged it proper to submit to the judgment of the House this extensive consideration, and to state in this Report the present amount of the public income, as resulting from the papers before them."—Was there, he asked, a man of common candour, who, after having heard the paragraph distinctly, could believe that the Committee either had asserted, or meant to assert, that the receipt of the year ending Jan. 5, 1787, would at all events equal the receipt of the year ending Jan. 5, 1786? So far from it, that it spoke expressly of the "temporary fluctuations to which a revenue so complicated in its nature, and depending so much on the various branches of an extensive commerce, must always be liable." He denied that there was any delusion in any part of the Report. He said he did not doubt but the hon. gentleman felt the usual anxiety for the credit of the East-India Company, and the same earnest desire to protect its rights that he had on all occasions manifested. Be that gentleman's opinion however what it might, he, who had some little knowledge on the subject, could say with confidence, that to no one of her resources could this country look up with more assurance of ability and power of support than to our East-Indian possessions. He spoke this from a familiar acquaintance with the domestic affairs of the Company, and from the very pleasing situation of affairs in India, as stated in the last accounts that had arrived.

Mr. *Fox* said, that the whole of the matter in question between his hon. friend and the gentlemen on the other side of the House lay in a very narrow compass. Was 15,397,471*l.* the sum given as the receipt of the year ending Jan. 5, 1786, or was it not? And if it was, as he believed it would hardly be denied, and all the business of appropriating a million of surplus was grounded upon that being the receipt of the year; was not his hon. friend correct in saying, that the receipt of the last year fell 900,000*l.* short of the re-

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ceipt of the year preceding? He surely was. Mr. Fox took notice of the 300,000*l.* which the right hon. gentleman had said he had gotten of army and other savings, and declared, though he was willing to admit that it was so, yet the House had a right to a little farther explanation of that matter. But allowing that fact to be as the right hon. gentleman had stated it, this reduced the deficiency to 600,000*l.* Mr. Fox argued upon the rashness and folly of catching at one year's receipt, and that a remarkably good one, as a ground to judge what the probable receipt in future would be. He said, the right hon. gentleman had assigned as a reason for the deficiency in the last year's receipt, that it was a bad season in the West Indies, and had assured the committee, that this was to be a good one. He a little doubted whether West India estates were to be valued in that sort of way.

After some further conversation, the Resolutions were agreed to.

Libel on Mr. Francis.] April 24. Mr. *Francis* rose with a newspaper in his hand, and said, that he neither meant to make a motion nor a complaint, but he hoped that he should not violate the order of the House, when he stated that there had that day appeared a most unfair and unwarrantable attack upon him, signed "John Scott;" and that he presumed the signature was, that of a member of that House [Major Scott nodded]. By the hon. gentleman's gesture he saw that it was; he had, therefore, to say farther, that as it was an attack upon him grounded upon a newspaper's account of what he had said in his discharge of his parliamentary duty, and in the execution of a particular office imposed upon him in that House, he meant to have recourse to the laws of his country for a remedy, and indeed he had already retained counsel for that purpose; but as a real signature was annexed to the letter, he should not proceed against the printer.

Major *Scott* said, that although the hon. gentleman had made no motion, yet he hoped the House would permit him to say a few words in reply. The hon. gentleman had thought proper to inform the House that he had commenced a suit at law against him. What had the House to do with that? When first the hon. gentleman began his speech, he conceived that he was going to prefer a complaint of a breach of privilege, and that complaint he was ready to meet. What was the complaint of the hon. gentleman? That he had been calumniated for doing his duty as a member of parliament. Was that the case? He denied it. The hon. gentleman had written pamphlets; the hon. gentleman had published speeches; and from the moment they were published, and to be purchased, at eighteen-pence each, he contended that it was perfectly free for him or any other person to comment upon them with as much freedom as they chose. What was the case in the present instance? He had been accused of calumniating the hon. gentleman in prints and pamphlets; and as he was determined the hon. gentleman should never in future have cause to make the same complaint, he had actually published the most offensive thing he had ever written relative to the hon. gentleman in the Public Advertiser, in order to give the hon. gentleman an opportunity of taking what steps he pleased; and he (Mr. Francis) had informed the House, that he meant to commence a suit against him in a court of law. In a court of law, then, he would meet him; but except there was a complaint of a breach of privilege, it was a business which could not possibly come before the House. The major again declared that he disclaimed the most distant idea of attacking the hon. gentleman out of doors as a member of parliament; but as a writer of pamphlets, he had an undoubted title to answer the hon. gentleman, in a newspaper or pamphlet, as often as he thought proper.

Impeachment of Sir Elijah Impey.] Sir *Gilbert Elliot* gave notice that on the ensuing Tuesday he meant to bring forward the subject of the impeachment of sir Elijah Impey.

Mr. *Dundas*, although he did not mean to object to the motion, entreated the hon. baronet to recollect that Parliament was not likely to continue sitting much longer, and that it would be absolutely impossible for him to complete his purpose in the present session. He submitted it, therefore, to his good sense and candour, whether it would not be more advisable for him to postpone the whole proceeding to the next session.

Mr. *Burke* said, that no man was more in earnest than he was in the intended impeachment of sir Elijah Impey, because a greater and more flagitious criminal did not exist than he conceived him to be, and

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the honour and character of the country as well as of that House, were called upon to prove his guilt and make him an example. Sir Elijah had been sent out by that House to restrain oppression, and he had become an oppressor; he had been sent out to execute an office which depended upon evidence, and he had cut up evidence by the roots; he had been sent out to stem the torrent of corruption, and he had himself become a corrupter; sir Elijah, therefore, in his opinion, deserved exemplary punishment. But when he considered that he had himself been the means of enfeebling his hon. friend's cause, by stripping him of that assistance which he was entitled to expect, and engrossing the abilities of so many gentlemen, by engaging them to take a share in the conduct of the proceedings against Mr. Hastings, he could not but give the hon. baronet that advice in public which he had before given him in private, to postpone the business till the next session, as he really thought there was enough of the same serious sort of proceeding already upon the hands of the House.

Sir *Gilbert Elliot* answered, that he meant to repeat his notice for Tuesday next, unless he understood it to be the general wish of the House that he should not persist in bringing forward the business this session. If gentlemen declared they were not prepared to discuss it, and therefore desired that it might be deferred, he should think it his duty to comply with their request; but in that case he hoped that, during the summer, they would apply themselves to the subject, so as to be able to come prepared for its agitation early in the next session.

Mr. *Pitt* said, that considering the state of business in that House, ever since the hon. baronet had first undertaken the prosecution, no man could blame him for having hitherto delayed it, nor should he recommend it to him to think of entering upon it during the present session.—Sir Gilbert Elliot, thereupon, withdrew his notice.

Prince of Wales's Debts.] Mr. *Pitt* said, that perceiving the House so full, he would take that opportunity of alluding to a subject of the highest importance in itself, and of the greatest novelty, which was likely to affect the most essential interests of this country, and which of all others required the greatest delicacy which could possibly be used in its discussion. An honourable magistrate had given notice that he should, on some day in the course of the ensuing week, make a proposition to the House concerning the establishment of his royal highness the Prince of Wales; but he had not thrown out any intimation of the specific object of that proposition. He was sure that it must be obvious to him, that a subject of such high importance, and one which the House would certainly not wish to enter upon at all, except on grounds of actual necessity was not a fit one to be brought forward by surprise, which undoubtedly would, in a great measure, be the case, if they were to remain ignorant of the scope and tendency of the proposed motion, until the very moment in which it was to be moved. If then the honourable magistrate still persevered in his intention of forcing the business forward, he hoped he would do it in a manner suitable to its vast importance.

Alderman *Newnham* answered, that he did not mean, as the right hon. gentleman had phrased it, to force forward the subject of the Prince of Wales's situation. It in fact forced itself forward; but he should have been extremely well pleased to have had the matter taken out of his hands by his Majesty's ministers. As to the particular parliamentary form which it would wear, it really had not been decided upon by himself; but the jet of it he had no objection to state, as it was to rescue his Royal Highness from his present embarrassed situation. He believed it was pretty well known that his Royal Highness was greatly involved in debt, and that he had, with a degree of magnanimity which did him infinite honour, set apart a very considerable portion of his income for the payment of his debts; but though it was extremely noble in his Royal Highness so to act, it was impossible for him to continue unrelieved, without being reduced to the alternative of living in a manner not equal to his birth and distinguished rank, or of running farther in debt.

Mr. *Pitt* considered it as rather singular that the hon. magistrate should have given notice of a motion before he had determined what that motion was to be; but as he supposed he would make up his mind about it before the intended day, and as he, for his part, could not venture to come to such a discussion, except upon very mature reflection, he should take another opportunity, before that day arrived, of once more requesting a more specific notification of the hon. magistrate's inten-

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tion; for certainly that which he had been pleased to give, was by no means a sufficient preparation for so very serious and delicate a subject.

Alderman *Newnham* replied, that the sum and substance of his motion would be, to rescue his Royal Highness from his present embarrassed situation, which he conceived that House alone could accomplish.

Mr. *Fox* said, that he entirely agreed with the right hon. gentleman that it was indeed a subject of peculiar novelty; but so were the circumstances which gave rise to it; and it was also of equal delicacy; but as that delicacy would arise from the necessity of going into an investigation of the causes from which those circumstances had originated, and as that must prove a painful task to the House, and to every gentleman in it, he hoped that the business might be forestalled, and something done in the interim to render it unnecessary for the hon. magistrate to prosecute his intention.

Mr. *Pitt* admitted, that the principal delicacy of the question would lie in the necessity of inquiring into the causes of the circumstances which were proposed to be brought into discussion, and for that reason he would, from his profound respect for every part of the illustrious family who were concerned in it, wish, if possible, to prevent discussion. If the hon. magistrate should determine to bring it forward, he would, however distressing it might be to him as an individual, discharge his duty to the public, and enter fully into the subject. But he still hoped that the hon. magistrate would, on farther reflection, be inclined to think that there was nothing of that peculiar nature in the business which could render it necessary for him to go so far out of the established course, or to justify that House in adopting any measure which should interfere with a subject which had always been considered as one of the most uncommon delicacy.

Debate on the Repeal of the Shop Tax.] The order of the day being read, Mr. *Fox* rose, in order to make his motion for the repeal of the shop tax. He began a most ingenious and striking argument against the tax, by stating, that he had never been forward in opposing taxes, because he thought it the duty in general of members of parliament to support Government in the arduous and invidious measures of finance; but, at the same time that he entertained the opinion, he thought it equally impolitic to adhere to it in the extreme degree, and on no occasion whatever, even though a tax should appear, after experiment and fair trial, partial and oppressive, to consent to its repeal. Under this impression it was, and upon a full conviction that the Shop-tax was a personal tax, unjustly levied from a particular description of men, that he should move for its repeal. The Shop-tax he had ever heard stated by those who defended it, to be a tax not upon the shopkeeper, but the consumer of goods sold by the shopkeeper. That he had ever peremptorily denied, and experience had proved beyond all possibility of doubt, that he was right in the denial.

Mr. Fox proceeded to urge all the arguments which he had formerly brought forward, to prove that the tax was not in fact, what it was called, but an additional tax upon house-keepers whose houses had shops annexed to them. He manifested the particularly unjust way in which the tax pressed upon the metropolis and its environs, by stating that the whole sum assessed for the shop-tax amounted to 59,000*l.* seventeen of which were assessed for the city of Westminster alone, twelve for the city of London, and twelve more for the villages adjacent; so that the county of Middlesex paid forty-one parts out of the fifty-nine of the produce of the tax. Mr. Fox reasoned upon this statement, and declared that he could scarcely have imagined, considering the superior opulence of the city of London, compared to the city of Westminster, that the latter should have paid seventeen parts of the produce of the tax, while the former only paid twelve parts; nor could he, at first, believe that the villages in Middlesex paid another twelve, till upon inquiry he found, that, under the head of villages were comprehended Mary-le-bone, High Holborn, Wapping, the out-parishes, and those nondescript districts which, though accurately speaking, they were not parts of the three cities, if he might so denominate London, Westminster, and their environs, were generally considered as parts of the metropolis. He compared this with the proportion paid by the rest of the kingdom, and said, that, though he could not be of opinion with those who thought that the representation of London, Westminster, and Middlesex, should be exactly in the proportion of their payment of the taxes,

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yet that forty-one parts out of fifty-nine was so monstrous a disproportion, that every man who barely heard it stated, must be startled at it, and must feel conviction that the tax was most partial and unjust in its operation and pressure.

Mr. Fox declared, that upon an examination of the assessment throughout the kingdom it would be discovered, that an hundred pounds was all that was assessed for some whole counties, and not above fifty for others. The partiality of the tax, therefore, was so palpable, that he could not see how the right hon. the Chancellor of the Exchequer could resist the application for its repeal with any colour of reason or of candour. He contended, that the favourite argument of the competition of shop-keepers, which had formerly been resorted to as a proof that they would lay the tax on their customers, was of itself a proof that the consumer did not pay it, and consequently a confirmation of the argument, that it fell totally on the shop-keeper. He instanced, in a variety of ways, the hardship of thus singling out one description of persons to pay a tax that the rest of the subjects were exempted from, and forcibly argued the injustice of that House insisting upon continuing a tax, to which they did not contribute one single shilling. Unless the bankers were selected, members of parliament could not be said to pay any thing towards it; and if bankers were assessed, what became of the argument of the consumers paying the tax? For surely it would not be pretended that bankers could lay any part of the tax on their customers. He showed, that so far from shops being an advantage to the houses to which they belonged, in many instances they produced an opposite effect. He mentioned those houses with shops which on account of their situation were let at high rents, and the shop-keepers of which hoped to assist themselves by letting lodgings. Every gentleman must be aware, that lodgings in houses without shops were deemed preferable to lodgings in houses with shops. In that particular, therefore, and in a variety of others, houses with shops were less proper to be loaded with an additional house tax than other houses.

He contended that it was ridiculous to persist in saying that the consumer paid the tax, when the shop-keepers knew and declared, and were ready to declare on oath, that they paid it themselves. If the shop-keepers came again to the bar, and said, "We pay the tax, and as it affects us solely, we beg to be relieved from it;" would that House say, "No, you do not pay the tax, we pay it, though you do not know it, and we choose to continue to pay it?" He dwelt on the absurdity of such a mode of reasoning, and said, it would be much better to give up the tax, and adopt some other less objectionable, and less objected against. Speaking of the assessments, he said they were proofs of the strenuous means resorted to, in order to force the tax to become efficient, and were in many instances capricious and extravagant. Mr. Fox instanced Mr. Wells, the ship-builder's yard, and that of a wholesale block-maker for shipping, which were assessed as retail shops, because some of the workmen occasionally sold a few of the chips; and also Greenland dock, because part of the sediment and scum was sometimes disposed of.—After urging a great variety of arguments, Mr. Fox said, that, though he knew the house-tax to be a very bad mode of taxation, yet if it was thought right to lay an additional tax on houses, he would recommend a general additional tax, as a more equitable measure at least than the shop-tax. He concluded a very able and animated speech, with moving for leave to bring in a Bill to repeal the act imposing certain duties on shops.

Mr. *Lambton* rose with great pleasure to second the motion, yet not without the utmost diffidence; aware how inevitably he exposed himself to the imputation of presumptuousness; how wantonly he transgressed the bounds of prudence, by so early an intrusion on the time and patience of the House; and how improbable it was, that the weight of any of his arguments could tend to the justification of so forward an appeal. He was, however, impelled, by strong reasons, to meet these difficulties, or, at least, induced to throw himself upon the indulgence of the House; an indulgence the more necessary, as he was surrounded by men of such transcendent abilities, as were not to be equalled in the annals of Parliament. Having received the instructions of his constituents, to support the motion, he could not content himself with merely giving a silent vote upon the occasion. Having also the happiness to concur with them in the opinion of its unjust partiality, he felt that his opposition to it could not be too open. He must confess his inability to resist the alluring opportunity of opening his lips,

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for the first time within those walls, with a remonstrance against a partial, oppressive, and unjust measure. Partial, oppressive, and unjust, it appeared from what had been so ably urged by the mover, from the various inquiries which he himself had been able to make, and from the various informations which he had collected. Could that right hon. gentleman on any subject prove deficient in eloquence, the instructions transmitted to their respective members, from a very great majority of the shopkeepers of London and Westminster, and of many other cities and towns in this kingdom—these of themselves, independent of all the aid of rhetoric, should incline the minister to its repeal. Yet, even such argument, however forcible, was not likely to weigh much with that right hon. gentleman; for one could hardly expect that the same minister, who could disregard, nay, treat even with contempt, a majority of the representation of Great Britain, would deign to pay a greater degree of attention to the majority of but a particular and distinct body out of doors; yet he trusted, that whenever he aggrieved any part of the subjects of this kingdom, he would find his ears assailed with their continual remonstrances. To pretend to argue, that the weight of this tax fell upon the consumer, seemed absurd upon the face of it; for if so, why should the shopkeepers persist in their complaints? Had we heard of similar complaints from hatters, from glovers, and others which might be named? Certainly not—because there the weight of the tax fell evidently upon the consumer; nor was it credible, that, in this instance, it could be possibly made to fall on the consumer, for almost every retail article was already separately taxed to its utmost extent, on which had been formed such an established price, as could not be departed from, without certain detriment to the shopkeeper, either by a great diminution or total destruction of the sale of that article. No idea could be more erroneous, no argument more futile, than to suppose that it fell upon the consumer; the real truth being that it fell entirely and heavily on the shopkeeper. In many instances he understood that it was exacted with a degree of cruelty and extortion. As such, it behoved the minister to consent to its repeal, or at least to step forward with such a modification of it, as might be more consonant to justice and impartiality. If in these times of general peace and tranquillity our people must labour under any grievous and oppressive tax, how dismal a prospect must they figure to themselves, of grievances and oppressions, should they ever unfortunately be engaged in any future war? He would repeat, in any future war; for not infected himself with this new-fashioned Gallomania, which so strangely possessed the minister and his supporters, he could not be so sanguine as to believe war for ever out of the question, or to suppose a long and uninterrupted series of peaceful years the sure or certain consequence,—one of the many golden advantages to be derived from this new commercial connexion. He, for one, could never subscribe to the implicit faith reposed in French professions, or rely on the mere cobweb tie of French sincerity. If, then, he could be permitted to suppose, that we might engage in any future war, he would ask him again what the people must expect to suffer on such an event, if in these times of peace and tranquillity they are harassed by any partial and oppressive tax? He, for one, should, on such an event, expect to see his Majesty's Chancellor of the Exchequer assuming and exercising the tyrannical power of a late governor-general of Bengal, and Great Britain exhibiting a scene of oriental extortion and persecution. He should expect to see state necessity held forth as an authorised cover to all the wanton enormities and oppressions of some lavish, unprincipled and despotic minister. He should hope that the right hon. gentleman would consider fairly and candidly the true case of the shopkeepers, and by no means look upon this as a motion carrying with it the sole view of embarrassing Government. He could assure him it was no motion of party; it was the petition of an oppressed body of men, of a body of men who had at all times and on all occasions contributed cheerfully their proportion to the support of Government; and on that account, and on the account of justice and impartiality, they were entitled to the consideration of ministers and to the spirited interference of their own representatives. He was as convinced as the minister himself of the necessity of taxes, and indeed of the necessity of their unpopularity, but he could not help looking on this as that sort of unpopularity which was founded on real and actual injustice; and he should be much less inclined to oppose that tax, which, being

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generally oppressive, is therefore equally felt by all, than to oppose one like the present, which, being partially oppressive, is therefore unfair and unjust. He concluded with intreating the House to consider fairly and candidly the real situation and hardships of the shopkeepers; with intreating the minister not to remain thus obstinately wedded to his own opinion and measures, refusing to undeceive himself, merely, he believed, from the fear of being obliged to regulate his inclinations by his reason; with intreating him to give this one instance of his condescension; such an act would be only stooping (if it could be called stooping) to rise again higher, assured, that thus, far from forfeiting reputation, he would considerably add to his character and popularity.

Mr. *Pitt* said, that the subject before the House had already been so frequently discussed that it was impossible for him to meet it with any new matter, and it appeared that the other side of the argument was equally exhausted; for the right hon. mover had not been able to introduce any fresh reasoning absolutely applicable to the question, every thing which bore that appearance being only new colourings to old tenets or topics entirely foreign to the subject. Mr. Pitt said, that the speech with which the House had been last favoured was as remarkable for the elegance of the language as for the liberality of its sentiments. There was one novelty, which he could not but take particular notice of, and that was the novelty of hearing an hon. gentleman, for the first time of speaking in that House, adorn a subject in itself dull and uninteresting (uninteresting as a subject of debate, but not as a public measure) with so much eloquence and ingenuity. The House, who had heard the hon. gentleman, would be convinced that the approbation he bestowed upon him, could not but be sincere; and the hon. gentleman, who certainly had not seemed desirous of bribing his applause, must feel that it was impartial and disinterested; for however he might be pleased to discover talents, he certainly could not experience much satisfaction in finding their whole force levelled against him and the system of his administration. Mr. Pitt now went into the question, contending that the natural competition of trade was sufficient to protect the inferior dealer against the more opulent, even under burthens proportioned to their situations; for if this was not the case, the competition, without any such burthens at all, or under the old burthens of taxation in common with all other housekeepers, would have long since operated wholly to demolish the lower orders; whereas the competition under the present tax was rather favourable to those latter mentioned persons, because the tax rose upon the higher classes in more than an adequate proportion. The more opulent trader would not be satisfied with the same general profit as the poorer one, but would expect a greater profit, in proportion to his situation, his rank among other dealers, and his command of capital. This proportional profit was only to be had by vending a greater quantity of commodities. But the vending a greater quantity would not answer the end, if on each article a small price was to be obtained. He never had suggested that a compensation for the tax was to be looked for by the shopkeepers in consequence of any general and uniform increase of their prices; but, each shopkeeper would naturally consider what article of his dealing was the most convenient for him to enhance, so as to bring him in an equivalent; and although the same article might not be chosen by another shopkeeper for the same purpose, yet there was no danger of his losing customers thereby; for, if it were found that on the general average the prices of both were equal, the buyer would, from motives of local convenience, resort to the same shop. And as to the argument, that if any compensation were to be made to the shopkeepers by the advance of their prices, it must be such an advance as would prove more oppressive on the public at large; to this he should answer, that although the competition of trade would not prevent their obtaining a proper compensation, yet it would render it unsafe to attempt at gaining more. The statement, as if it was a question between the shopkeepers and the members of the House, was, as far as the right hon. mover's argument at all applied, between the shopkeepers and the whole body of the people of England, objectionable. As to himself, he did not repose that implicit reliance on the faith of foreign nations which was imputed to him; yet he was too well convinced of the happy effects of peace on this country, not to endeavour to secure its continuance as much as possible; and the best method of doing so was, to make it the interest of our neighbours to cultivate a good understanding with us, and also to preserve our strength and power as much

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in a state of defence as our situation would permit. The first of those was the object and motive of the commercial treaty; and it was certainly not the best way to consult the latter, to give up hastily and on light grounds so considerable a branch of revenue as that now under discussion; and it was to be considered that, by giving it up now, the House would in a great measure be pressed to abandon it for ever; and in any farther emergency would be tied up and precluded from having resort to it.

Sir *Gregory Page Turner* said: After the speech delivered by the Chancellor of the Exchequer last Friday, replete, as usual, with a display of oratory, and great knowledge of finance, scarcely to be equalled, but still more distinguished for its glad tidings—tidings that convey more grateful intelligence to our ears, than we have known for a long period of time—I mean, a respite from taxation;—it is with great reluctance, I now rise to oppose any tax he has introduced into this House, sensible as I am, that it is by establishing those taxes, and those taxes only, he is now enabled to hold forth so flattering a prospect to this country. But it is not the principle of the shop-tax, but its partial and baneful influence, which I reprobate. I could wish the right hon. gentleman would see the propriety of extending this Act to every description of traders; so as that warehouses, as well as shops, may be included; and above all, that monied property, of every denomination, especially the funds and bankers, might be looked up to. By so doing, the minister would draw a just line of equalization between the landed and monied interest of the kingdom. The minister is not fond of taxing his best friends, (meaning the bankers and stockholders) as it would ill suit "beggars to become choosers," though a minister himself must always be a beggar, when he wants to borrow money for the state. No member wishes more to support public credit than myself, but not having digested the consequences of this bill at its first outset, I saw it in a more favourable light, yet voted accordingly; though having since that period conversed with, and collected the opinions of some of the most respectable and independent traders in Westminster, whose opinions should always be venerated by every member of the senate upon commercial occasions, I am now fully convinced of my error, and give my hearty concurrence to the present motion, unless the minister will adopt some modification to soften the proportion on the retailers, by rendering the tax general, or equalizing it in some other shape.

Sir *Benj. Hammet* said, that having, when the tax was originally proposed, been the first to point out the partiality of it, and sincerely wishing its repeal, he hoped the House would indulge him while he made a few observations. The shop-tax appeared to him to be a kind of capitation tax; and such a tax led very naturally to slavery, and was fit only for a despotic government. If the necessities of the state required it, there could be no doubt but they had the power to give all the houses of the kingdom for the preservation of the whole; but then their constituents should see that they gave their own houses with the houses of their constituents, which was their best security. Whenever that House acted otherwise, they clearly acted contrary to the true spirit of the constitution. He had, upon former occasions, declared himself an enemy to all personal taxes; and as such, he had considered licences when carried beyond regulation; and he believed, since the Revolution, they had ever been proposed as acts of regulation: duties on commodities were least felt by the people, as they were not demanded in form. The right hon. gentleman could not deny that the present tax might be carried to a horrid degree of partiality and abuse, if ever they should have a wicked minister and a corrupt parliament.

Sir Benjamin declared, that he voted against this tax as partial and cruel; and he should hold it his duty to oppose any tax, if that House was not clearly included in the principle of the tax, and which would prevent the possibility of abuse.

Mr. *Mainwaring* argued for the repeal of the tax, declaring, that the peaceable conduct of the shopkeepers entitled them to the favourable countenance of the House. There was not the smallest portion of party feeling, or opposition to Government in their motives, a fact sufficiently apparent from their behaviour at a populous assembly convened for the purpose of instructing their representatives, and at which the right hon. mover was present. That right hon. gentleman had dropped an expression which seemed to bear hard on the minister; and it was instantly noticed and reprobated by the meeting as foreign to their business and wishes.

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Alderman *Sawbridge* urged the impossibility of the shopkeepers imposing the tax on the consumer, by distributing it in small proportions on his goods.

Alderman *Newnham* repeated his former objections against the tax, as being extremely partial and unjust, and said, that the shopkeepers of the metropolis, instead of regarding the modification of the last year as any argument in their favour, considered it as clenching the nail completely, since it exonerated the country shopkeepers in a great degree, and thence the more evidently proved the partiality of the tax with regard to them.

Sir *Watkin Lewes* observed, that there was something singular in the debate; for the defence of the measure lay wholly with the Chancellor of the Exchequer, who had contended upon speculative ideas, though contradicted by the uniform testimony of the traders who had appeared at the bar last year. If the experience of the operation of the tax had not confirmed that testimony, why did not some gentleman get up and support the minister, instead of contenting themselves with giving a silent vote? The last division in that House against the tax was very considerable; and he had no doubt that it would be greatly increased from the conviction that the tax was unjust, partial, and oppressive. It had been insinuated that the motion for its repeal had originated in a spirit of opposition. He desired to contradict that opinion, as all parties in one of the greatest meetings assembled in the city of London had expressly declared otherwise.

Sir *James Johnstone* said, he had been a voter for the tax on account of the legal murder of the hawkers and pedlars which it occasioned.

Mr. *Drake* complimented Mr. Pitt on his good intentions, and said, he had generally supported him; but he really thought the tax should be repealed. He quoted M. Necker's expression, "that the happiness of the people ought to be consulted by every financier, as well as the exigencies of government," and recommended it as well worth the notice of the right hon. gentleman.

Alderman *Le Mesurier* contended for the repeal of the tax, and advised the members to act disinterestedly, and give up the right of franking letters in order to make up the deficiency which the repeal would occasion. The abolition of the right of franking he estimated at 160,000*l.*

Mr. *H. Thornton* declared, that the shopkeepers would persist in their application year after year, till they obtained a repeal. The House had better, therefore, with a good grace, give up the tax at once.

Mr. *Fox* said, that what had fallen from an hon. baronet, relative to the "legal murder of the hawkers and pedlars," reminded him of a matter which he meant to have taken notice of in his first speech. The idea of abolishing the hawkers and pedlars had originally been held out as a sort of douceur to the shopkeepers, to induce them to submit the more readily to the payment of the shop-tax; but the idea was afterwards given up, and only a slight regulation respecting hawkers and pedlars had taken place. Had they, however, been abolished entirely, the circumstance could not have proved beneficial to the shopkeepers of London and Westminster. It was, therefore, extremely unfair to urge the operation of the measure taken respecting hawkers and pedlars as argument against the shopkeepers.

The House divided:

Tellers.

Yeas	Mr. Alderman Sawbridge Mr. Alderman Newnham	147
Noes	Mr. Boughton Rouse Mr. Rose	183

So it passed in the negative.

Articles of Impeachment against Mr. Hastings.] April 25. Mr. Burke brought up the first seven Articles of Impeachment against Mr. Hastings, which were read *pro formâ* at the table, and ordered to be printed. See Commons Journals, Vol. 42, p. 666.

Debate in the Commons on the Bill for Farming the Post Horse Duties.] April 26. Mr. Rose presented a Bill for enabling the Treasury to let to farm the Duties on Horses let to hire for travelling post, and by time.

Mr. *Marsham* said, that, if the Chancellor of the Exchequer would not give the House some information as to the extent of the frauds practised, and the principles on which the proposed alteration was founded, he should think it his duty to object to the Bill being read a first time.

Mr. *Pitt* said, that the fraudulent evasion of the tax was a matter of such notoriety, that he believed it could not have escaped the observation of a single mem-

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ber of that assembly. The extent of these frauds had not, he said, been ascertained, but he believed no one doubted of its being very considerable; and it was a circumstance which added much to the grievance, that the tax, for the most part, was exacted with great strictness from the public, but that a large proportion of it, through collusion between the inn-keepers and the collectors, never found its way into the Exchequer. To correct so great an abuse, and to secure to the public the receipt of that money, which the individual was thus obliged to pay, it was necessary to put the duty under some regulation; and the only effectual mode which had occurred to him was, that of letting it out to farm.—It was intended, he said, to divide the island into districts, each of which, a few instances excepted, would contain a county. These were to be put up to public auction; and that the public might at least be sure of losing nothing by the bargain, the bidders were to begin from that sum, which the district, at its highest rate, had ever yet produced. There could be little doubt that many candidates would offer themselves, and that the duty in each district would let nearly for what might reasonably be supposed to be its full value. It was proposed, that the agreement should continue for three years, that the lessee should keep a regular account of his receipts, and that these accounts should be submitted to the inspection of the Treasury. No greater powers were to be given to the farmers than had been given to the present collectors; and it was merely from the superior, because the more interested, vigilance of the former, that they could derive any advantage.—He had heard it objected, that there was something in the principle of such an establishment repugnant to our constitution, and to the general system of our revenue; but for this objection he saw no solid foundation. It was true, that such a principle did generally obtain in some countries of more despotic and arbitrary forms of government than ours; and, perhaps, some degree of oppression might arise from the manner in which that principle was carried into effect. But those oppressions were not to be attributed to the system of farming the revenues, but to the form of government, which of itself would naturally lead to arbitrary and oppressive modes of collection under any system of revenue which might be adopted. In those countries there was not, as in this, a parliament jealous of the rights and liberties of their fellow-subjects, and able to protect them; there the farmers were invested with their powers by the Crown singly; whereas here, without the consent of Parliament, no such powers could be given, even if a minister should be desirous to have them granted.—With respect to its being an innovation, that, he contended, was not, in fact, strictly true. He referred to the turnpike duty, which was of all others the most analogous in its nature, and the mode of its collection to that under discussion; and which was almost universally let to farm. Another instance adduced by him was, that of the cross-letter postage, which had been for many years let out to Mr. Allen, the gentleman who first suggested it.—A farther alarm had been taken, from an apprehension that the precedent might hereafter be followed up, and other branches of the revenue put under a similar regulation. He denied that he had any such intention; and he desired the House to consider, whether there was not something in the post-horse duty, which made it peculiarly proper to be placed under the new system, and which might not be applicable to any other branch of the public revenue. He earnestly wished that gentlemen would suspend their judgments on the subject until after the Bill should be printed, when they would have had time to consider its tendency and operation.

Mr. *Bastard* conceived that some proof ought to have been laid before the House, that the frauds talked of did actually exist, before such a Bill had been proposed. The Chancellor of the Exchequer had said, that the public did pay the tax individually, but that after it had been so paid, it did not find its way into the Exchequer. If the fact were so, it only proved that the Board to whose management the collection of the tax had been intrusted, were not sufficiently alert. As to the comparing the farming the post-horse tax to turnpikes being farmed, he did not think there was the smallest analogy between the two, because the one was a private and the other a public concern, and every gentleman must see there was a wide distinction between suffering men to do as they pleased with their own private concerns, and farming the public revenue.

Sir *Joseph Mawbey* said, that, when he had first heard of the measure, he felt the same objections to it as those stated by the

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two hon. gentlemen; but the fair and candid explanation of the nature and tendency of the Bill given by the Chancellor of the Exchequer had convinced him that it was a measure not likely to be productive of any bad consequences. It had been his lot to have much to do with letting the tolls of a neighbouring county, and he knew from experience, that the letting them to the highest bidder did very considerably increase their rents.

Mr. *Drake* thought the analogy between farming the post-horse tax and farming the tolls of a turnpike was not very wide; and could say from personal knowledge, that putting the latter up to public auction was attended with very beneficial consequences. He thought the explanation of the Chancellor of the Exchequer perfectly satisfactory.

Mr. *Rolle* said, that, in supporting the Bill, he thought he should best comply with the wishes of his constituents, who were desirous, before new taxes were imposed, that the minister should be supported in adopting such measures as were most likely to make the existing taxes productive.

Mr. *Dempster* should not think he did his duty, unless he were to object to the Bill, even in that stage of it. He considered the farming the revenue as a measure so foreign to the principles of the constitution, that it was seriously alarming to his mind. Would that House so far depart from their duty as to put it in the power of farmers of the revenue to grow inordinately rich, at the expense of the ease and happiness of the people? Would it leave the people at the mercy of such men as farmers of the revenue always proved? There were parts of the kingdom, especially Scotland, which had few turnpikes in it; if farmers of the revenue were instituted, they would be putting up gates without number, to the great annoyance of the public. Mr. Dempster read the opinion of the president Montesquieu, from that chapter of his Spirit of Laws, in which he treats of the subject of collecting the revenues of a kingdom by farmers-general. He also read an extract from Smith's Wealth of Nations upon the same subject, to show that the best writers gave the preference to an administration of the Government of a country keeping the collection of the revenues of it in their own hands, and stated the consequences of entrusting the collection to farmers-general to be destructive to the liberty and comforts of the subject. He said, he had lived long enough to be able to remember the institution of the cross posts. That scheme had been devised by Mr. Allen; it was the product of his brain, and, therefore, at first the Post-office gave it to him for nothing. He afterwards farmed it; but as soon as it became productive, the public would not bear it to be farmed by an individual, and Government took it into its own hands. Instead, therefore of that matter being fit to be held up as a precedent, it was rather a proof of the adverse sense which the public entertained of farming the national revenue. If the precedent were once admitted in the case of the post-horse tax, who could answer for its stopping there? It most probably would be followed by a variety of other taxes being put out to farm; and therefore he considered it his duty to resist the first attempt to establish so fatal a precedent.

Mr. *Jolliffe* said, that, although there were other periods in which the Bill might be discussed, yet he could not avoid taking some notice at the first appearance of this phænomenon in English economy. This was such a foundation whereon to build oppression, influence, and every species of jobbing, that some resistance ought to be given to its very entrance. The Gallomania formerly mentioned by his hon. friend (Mr. Lambton) had surely infected the minister in a wonderful degree, when the very first bill he introduced after his commercial treaty had passed, went to constitute in this country the French mode of collecting the revenue. Some articles of French manufacture might be not only palatable, but wholesome to the natives of this island; but French constitution and French law no Briton could relish. This Bill, therefore, should have his hearty opposition, from its first entrance to its final exit.

Mr. *Fox* said, that he was determined to oppose the Bill, on the ground of its being sure, if carried, very considerably to increase the influence of the Crown. The number of collectors who were to receive the duty must be considerably increased, and the appointment of so many new officers would give the Crown great additional influence. With regard to there being no new powers to be created, it was impossible; for if the tax was let out to farm, those who farmed it must necessarily be invested with those powers, which could alone enable them to enforce the payment of it; and then Ad-

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ministration could no longer be responsible for the conduct of the collection. This was a point extremely essential for the consideration of the House. They were bound in duty to watch over the Executive Government, and to censure it in every instance where they saw abuse or improper conduct. They ought not, therefore, to let such a power loose, and suffer it to go out of their hands; and the power of inquiry and superintendance would be lost, as far at least as regarded the post-horse tax, if they suffered Administration to get rid of their responsibility respecting it for three years, or for any other term, for the space of which it might be let out to farm. Every gentleman who knew what war was, knew what a contractor was; and the improper influence exercised over and through the medium of contractors. The farmers of the revenue would be contractors under another name; and was it to be imagined that there would be no connection between them and Administration? Undoubtedly there would. Shameful was the idea of there being a middle man between the subject who paid the tax, and its ultimate payment into the exchequer, created for the express purpose of growing rich out of the distresses of the people. If the precedent was once established, who could tell to what extent it might be carried? It was wise, therefore, to resist it in the first instance.

Mr. *Sloper* felt much pleasure in observing the general jealousy and alarm which had shown itself at the very first introduction of a scheme so opposite to the principles of the constitution. It was extremely becoming that House, and did the individual members, who had resisted the attempt to establish so bad a precedent, great honour.

Mr. *Pitt* said, that the right hon. gentleman who spoke last had made it a very serious business indeed, when he stated the danger of great and sudden fortunes being created by it, such as should enable the farmers to overawe the Government, and support themselves in any new oppression which they might think it their interest to introduce in their collection, and the loss the public must sustain by the enriching so many people at its expense: but, in the first place, the public could suffer nothing; for the districts were to be set up at the highest rate which they had ever produced, and the present mode of collection was extremely expensive, the whole revenue producing but 166,000*l.* and the expense attending it being 17,000*l.*; which last sum would probably be as much as the amount of the whole profits of all the farmers taken together. The right hon. gentleman had also objected to the principle of setting up what he called a middle man between the people and the state. But the fact was, that at present every innkeeper was that middle man; and though many of them might be perfectly clear of any such practices, yet he apprehended in general they all played a very unfair game both with the individual and the public. There were many branches of the revenue to which it would be improper to apply the regulations of excise; but would gentlemen for that reason say that there ought to be no excise at all, lest it might be extended too far?

Mr. *Sheridan* stated several arguments against the Bill, and particularly contended, that the House could not delegate the powers of the executive government to others, who were not amenable to that House.

On the question, that the Bill be read a first time, the House divided: Yeas, 76: Noes, 39.

May 2. On the motion for the second reading of the Bill,

Mr. *Marsham* said, that he had examined the Bill attentively, but that it had not altered his sentiments respecting the impolicy of introducing so dangerous a system as farming the public revenue. The preamble set off with stating, that there were enormous frauds practised in the present mode of collection of the tax on post-horses; before the House voted that assertion, he conceived they had a right to have before them proof that it was true. He desired to know where that proof was to be found. The Chancellor of the Exchequer had indeed observed, that frauds were notoriously practised; but had the Board of Revenue, in whose hands the management of the tax was invested, presented any memorial to the Treasury, stating that the produce of the tax was declining, and that such a regulation as the Bill enacted, appeared to them to be absolutely necessary? He thought, if the Bill passed, that the revenue would rather be injured than benefited, and mentioned several facts elucidatory of his position. Upon the whole, he would make his stand there, and oppose the second reading of the Bill.

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Mr. *Pitt* first took notice of the hon. gentleman's observation relative to the preamble of the Bill containing an assertion which had not been proved. The fact was, that frauds to a considerable amount had been practised. It was a matter of great notoriety; and where facts were matters of public notoriety, it was by no means unusual for that House to state those facts in the preamble to a Bill, as the grounds of necessity on which it stood. With regard to the question, whether the commissioners of the Stamp-office had presented any memorial to the Lords of the Treasury, alleging a growing deficiency in the amount of the collection of the tax on post-horses, he had no hesitation to say, that they had not. But what then? He never had heard it argued, that when that House vested the executive management of any tax in either of the boards of revenue, they so far delegated their authority as to have parted with the powers of legislation altogether; and that thenceforward they were rendered incapable of amending their own tax bills, and could not apply any regulation to go in aid of the collection of any particular tax, unless upon application of the board of revenue, to whom the executive management of the particular tax in question had been delegated. So far from the revenue boards thinking it their duty to recommend regulations and to suggest amendments, he had found that some boards of revenue held their bounds of duty to be so limited, that they conceived they did enough when they confined their attention solely to the management of the taxes entrusted to their care. This was a doctrine which he had taken a great deal of pains to overturn, having used many arguments to draw the boards of revenue out of the limited line which they had chalked out for themselves, by persuading them that they ought to carry their notions of duty somewhat farther, and to consider it incumbent upon them, not only to state when there were deficiencies in any tax, but to suggest such regulations as should appear to them to be most likely to cure the deficiencies and increase the produce of the tax in question. With regard to what the hon. gentleman had said of the points which called for regulation, his observations deserved serious attention; but they might be provided for in the committee.

Mr. *Lambton* felt that he should be wanting in duty to himself and his constituents, to remain silent at present, however indifferently he should be able to discuss the question under consideration. The Chancellor of the Exchequer, and those who placed a kind of implicit confidence in his opinion, might be induced to say, that the opposition to this Bill arose purely from obstinacy; but those only would say this, who could oppose no other argument. The advantages could not be held out with any degree of certainty, but the danger of it could. If this mode chanced to succeed, what would follow? Why, that the whole of the revenue might and should be farmed. It would be easy to say, "Notorious frauds have been committed in this branch and that branch, without any specification: why therefore not farm them? See the success of this mode in the post-horse duty." Here the danger lay; he, therefore, wished to see that danger crushed in the bud. Precedents had been quoted to sanction this measure; every plausible argument which could possibly be urged in its favour had been adduced. Arguments, however, still stronger, had been applied against it, and he hoped they would have their due weight. The best writers on this subject, of whatever nation, were decidedly against the measure. Well known was the detestation in which the farmers-general of France were held; and could it be supposed that those who should contract for the present duty, would be held in less by a free people, who were willing to pay what their representatives imposed, without the additional circumstance of being urged, which seemed of all others so ungenerous, that he trusted it would be treated with the indignation it deserved. The preamble set forth notorious frauds; and yet the tax, in the very last quarter, was allowed to have increased 9,000*l.* Was not this a sufficient proof, that those notorious frauds were ideal, or at least dragged in to help out and varnish a measure of all others, perhaps, the most unconstitutional? Was this measure introduced merely to gratify that inordinate desire of innovation, that so invariably marked the present Administration? Some of those innovations already disgraced the journals of the House; the wisdom of Parliament had rejected others; and he now trusted that its wisdom would shine as conspicuously on the present occasion. In case of a decrease of revenue, from bad seasons in the West Indies, or other incidents equally plausible, the minister had nothing to do but to put up

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the other branches of the revenue to auction, and thus barter the unalienable privileges of the constitution. This mode, besides, went directly to increase the power of the Crown, which of all others the House should watch with a most jealous eye.

Mr. *Rose* contended that the Bill neither introduced a new precedent, nor gave any new powers to any set of men whatsoever. With regard to the principle of farming the revenue, as practised in France, and the proposed plan of farming the Post-horse tax, no two matters could be more widely different. In France, the farmers-general were a body corporate, who held not merely the collection of the revenues in their hands, but a monopoly of the articles of revenue themselves. Whenever the king of that country wanted money, he applied to the farmers-general, as he could borrow of nobody else; but before the farmers-general would consent to lend him the sum he wanted, they generally proposed terms, and demanded certain powers to assist them in enforcing and swelling the collection of the new species of revenue on which the money was borrowed. The king being thus in the hands of the farmers-general, he was obliged to submit, and thence the subjects were so cruelly harassed and oppressed as they were, especially in the two principal articles of revenue, salt and tobacco. But the case proposed by the present Bill was exceedingly dissimilar. The tax to be collected was an ascertained sum, no more than which could on any pretence be levied; and it was paid by the traveller's leaving it behind him as he journied, in the hands of each innkeeper. With respect to the contract-holders having it in their power to vex and harass the innkeepers and the collectors, by frequently changing their mode of keeping their accounts, it was a mistake; for, by the clause in the Bill, they were only empowered to direct any such change to be made, with the consent of the commissioners of the Stamp-office.

Mr. *Bastard* insisted that the Bill set off upon very uncertain, though plausible, grounds; as the preamble stated, that notorious frauds had been committed, without specifying any one of those frauds. A committee for that purpose ought to have been appointed; for, as the frauds were acknowledged to be notorious, he did not see the difficulty of collecting and arranging them. No doubt, those who intended to bid for this duty, must be masters, in a degree, of those notorious frauds. He, therefore, thought the House as well entitled to the knowledge of them as the purchaser. Besides, as this tax had increased 9,000*l.* in the course of the last year, why might it not increase in the succeeding year? Would it not, therefore, be better to postpone it, in order that the public might benefit by that increase? And this the rather, as they must have just the increase of the last year, if it had been farmed previous to that period. And that there was a prospect of increase, however temporary, was very visible. The treaty between us and France must of course increase the number of travellers. These circumstances, he thought, deserved attention.—By a clause in the Bill, he saw that those contractors were not to be deprived of their votes. This was the tree destined to bear the fruit which ministry were to pluck; but he hoped the House would blast that fruit in its bud. No man wished better to the legal increase of the revenue than he did. But this was only a secondary consideration. His opposition to the Bill arose from his attachment to the constitution, on which he did not like to see any experiments tried; and it was plain to the meanest capacity, that this was a measure foreign to the freedom of our independence. It was a measure entirely founded on despotism; and if one precedent gained ground, it paved the way for another. Executive Government, in adopting this measure, was giving up the power of redress, which was the last thing they should part with. Provided the subject was aggrieved, and complained, what could the House on such an occasion do? Why, nothing till the contract expired. The contractor knew this; he could triumph in the security of his bargain; he could enter the house of the subject, like Shylock, with a pair of scales in one hand, and a slaughtering knife in the other, to demand his bond and the penalty of his bond; and whither could the afflicted fly for redress? Not surely to those who had parted with that power, and who might repent it when it was too late.—One argument in favour of the sheep-tax had been, that it was an impost which found its way immediately into the Exchequer; but this argument could not apply to the present mode; the qualification of those contractors made no part of the Bill. No matter how bad their characters, provided they gave sufficient bail. He recol-

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lected an oriental observation, which came home to this point. The character of one of the Indian contractors was acknowledged to be infamous. 'What was the excuse on that occasion? Why, the less humane, the fitter for the purpose. And who knew but that Gunga Govind Sing might hereafter farm the imposts of Englishmen? He therefore trusted, that gentlemen would feel as he felt on the occasion, and give proof of the same, in the rejection of a measure fraught with such unspeakable danger to all which Britons held dear.

Mr. *Powys* said, that he should not oppose the second reading of the Bill; but he wished very shortly to state to the House the reasons which induced him so to consent. He then pointed out the view which he had taken of the Bill, the manner in which it struck him, and the extent to which he was willing to go with it. He adverted to parts of it which he thought highly objectionable, and said that in the committee he would state his reasons for such alterations as he should propose, and expect to have adopted, before he could give his consent to the Bill.

Mr. *Addington* defended the Bill: he said, that it did not alter or lay any new tax on the subject; it merely provided a new mode of collecting a tax which the public already paid, and it did not put it into the power of the farmers to oblige them to pay more. If it were a plan for generally farming the revenues, he declared that he should not support it, but it was a very different matter. He quoted M. Neckar, to show that that ingenious writer and able financier had declared it to be his opinion, that the subjects of this country could never be oppressed by taxes, or their mode of collection, in consequence of their being originally submitted to the judgment of Parliament, and discussed publicly in both Houses previous to their being declared to be law.

Sir *W. Molesworth* supported the Bill, and said that the plan would have this good effect; it would take the money which went into the pocket of the postmaster, who was a rogue, and convey it to the Exchequer.

Mr. *Martin* said, there was nothing in the Bill which appeared to render it improper to go to a committee; but then he should wish that some parts of it might be amended.

Mr. *Rolle* said, that he had listened attentively to all which had been urged respecting the Bill, and that he had not heard any substantial objection to it. Every gentleman who travelled much, must know that there were repeated evasions of the tax, and that the traveller paid the duty, though it did not find its way to the Exchequer. He should, therefore, support the Bill; but if he thought it was at all unconstitutional, no man would be a more determined opposer of it than himself.

Sir *Richard Hill* remarked that there ought to be more listeners than speakers, but that he felt himself constrained to break silence. He had been constrained by the arguments on the other side of the House to become a speaker. Those arguments were so strong that they had thoroughly convinced him. He begged leave to explain himself: they had operated upon his mind like a reflecting telescope, and convinced him that the reverse of the picture which they exhibited was the true picture of the Bill, and that it was a wise, an unexceptionable, and a good Bill. He observed, that in discussing its merits gentlemen had chosen to cry 'Fire! fire! the constitution is in danger!' and in order to quench the first spark which they saw likely to put the whole into a flame, all the water-plugs of patriotism were pulled up, and the buckets of opposition discharged upon it. He did not think that the Bill could be deemed an attack on the constitution in any sense of the words, nor could it be called a question deeply affecting Church and State; for he knew not that the Church had any thing to do with the Post-horse tax; nay, he believed there was a clause in the Act excepting every person who rode to church from paying it. With regard to the outcry against the Bill because the French farmed all their revenues, he thought they might as well say, that because the French king was an arbitrary and despotic prince, that all monarchy was bad; they might as well say, that if a French papist, or any other papist, declared that he believed in God, and in the immortality of the soul, that he (sir Richard) ought to turn atheist and materialist. He took occasion to introduce the coalition, and said that was an innovation; but that the House seeing the badness of the precedent, had demolished it at its outset. The two individuals who formed that monster, had, he said, been two human beings with wonderful large craws. He remarked, that, as the farmers were to begin to bid at a higher sum than the collection had ever amounted to, the

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public must gain and could not lose; and that circumstance alone, therefore, proved that the Bill was wisely framed, and as to any thing which had been said against it, he never heard such a waste of words on any occasion whatsoever.

Mr. *Windham* presumed the hon. baronet had thought that the dull and dry discussion of a serious constitutional question required to be interspersed with some entertainment, in like manner as they had often seen a serious drama followed by a person's coming forward to sing a laughable song, in order to relieve the minds of the auditors from gloomy thoughts; but the hon. baronet had not taken care that his interlude should possess as much novelty as was usual on such occasions; since, if he had not quite erred in point of recollection, he had heard some of the same witty allusions before, and had read others in common newspapers. In some places, also, the hon. baronet's malice seemed to have outrun his wit; for to what else could be imputed his introduction of a well-known political event, to which the question bore not the smallest connexion? The motive, therefore, was so evident, that it could scarcely be mistaken; and, indeed, it seemed merely for the sake of that single point that the hon. baronet had risen; for he had not said one word to the Bill which looked either like argument or originality. —Mr. Windham then proceeded to prove, that even if it were true, that the revenue might receive an increase of the product of the tax, yet it might happen that we gave too much for that surplus. He illustrated this by saying, that if the largest collection of the tax had produced 100,000*l.* and the farmers consented to give 105,000*l.*, yet if they by an enforced collection obtained 110, or 115,000*l.* we clearly gave away 5 or 10,000*l.*, and the public paid the whole. He contended, that it was the duty of Government to try, by apt and proper regulations, to keep the collection in their own hands, and not put it in the power of grinding farmers of the revenue to make large fortunes at the public expence. He mentioned also the bad precedent which the Bill would establish.

The *Attorney General* said, that the post-horse tax, from its peculiar constitution, was perhaps the single tax to which the principle of farming could be clearly and effectually applied. Most, if not all the other taxes, had something in them which made it almost impossible that they should be farmed at all. So far was he from being a friend to the idea of putting the whole revenue to farm, that if ever such an attempt was made, he would resist it with all the opposition in his power. With regard to the existence of the frauds which formed the ground of necessity for the measure, it was notorious, and that to a most enormous degree. He denied that the measure was any innovation. The farming of the cross-road letters by Mr. Allen was a case in point; for the Legislature in that case, though they had not expressly authorised it, never met it with their reprobation. He gave the House an account of the adoption of that measure, and said that, at the time the Crown enjoyed its hereditary revenues, the revenue of the Post-office was held by George 1, for life. When the scheme of farming the cross-road posts was in contemplation, a case was submitted to the Crown lawyers, in order to learn their opinions whether the King could sign a lease of a part of the Post-office revenue? The lawyers answered, that he might, provided the lease terminated with his life; and accordingly the Cross-posts were let to Mr. Allen, and no complaint of injustice, oppression, or breach of the constitution, was ever heard.

Viscount *Maitland* said, that the side of the House on which he stood were combating a dangerous principle, on a broad constitutional basis; and they defied the other side to argue for it upon the same foundation.

Sir *James Johnstone* declared his good opinion of the Bill, and, to prove that it was neither an innovation nor a new precedent, he reminded the House, that formerly all the revenue was farmed in Scotland; and that at this day the revenue was farmed in Holland, and, he had been told, in Sicily.

Mr. *Drake* said, that the tax was unexceptionable, and collected with great ease. He signified his intention to move in the Committee to make the contracts annual.

Sir *Benjamin Hammet* was against the principle of farming a tax; but observed, that unless it was proved that the collection could be secured, so as that the whole of what the public paid went into the Exchequer by other means, he should vote for the Bill, as an experimental bill.

Mr. *Fox* was of opinion, that the words innovation and precedent were too often misapplied in that House, and for that

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reason he was an enemy to the Bill; because, knowing as he did, what use was made of it in that House, after having been once received, he was always extremely cautious in suffering a precedent to be established. So sure was he that the precedent of farming the revenue ought not, in the case under consideration to be established, that, should the Bill be carried to a committee, he would leave that committee to itself, hoping and trusting that the committee would make the Bill so exceptionable, and so defective, that it would produce no revenue at all. He said, that the principle of farming any part of the revenue was a principle pernicious in the extreme, and such as ought never to be introduced but in a case of the most urgent necessity. He instanced the origin of the Excise, which had been founded on undeniable necessity. He compared the principles of the Bill with those of his own India Bill, and contended, that in respect to the increase of the influence of the Crown, in the creation of new dependents, they were similar; with this difference, however, that the persons appointed under his Bill were subject to the control of Parliament; whereas those appointed under this Bill were subject to no such control. He asked, what could have induced the minister to alter the mode of collection? At present it was the interest of the collector to increase the produce of the tax, because he in proportion increased his own profits. For every shilling which the collector got, the revenue received ten. Why, then, should a middle man be called in to make a fortune at the public expense?

Mr. *Grenville* contended, that the farming of the turnpikes under a general Act of Parliament was an unanswerable precedent for the present Bill, and that the letting the cross-posts to Mr. Allen was a strong collateral confirmation of that precedent. He remarked, that although the Post-horse tax might be farmed, yet the apprehensions that other articles of revenue might be farmed likewise, were idle and ill-founded. There scarcely was an article to which the principle of farming could be applied, excepting the Post-horse tax. Essential was the distinction between the appointments under Mr. Fox's India Bill and those under the present Bill; they were by no means analogous. With respect to the present collectors having an interest in making their collection as large as possible, it was true; but if they were dishonest men, and heeded not their oaths, instead of taking the one shilling out of ten, they might sink the whole ten.

Alderman *Townsend* observed, that it was agreed on all hands that the Bill was an innovation, and every innovation ought to be grounded on an established necessity: no such necessity had in the present case been established, and that for the best reason, because no such existed. The deficiency in the produce had arisen in consequence of frauds; but the prosecutions, a year ago, had greatly reduced the deficiency.

The House divided; Yeas 162: Noes 95.

Debate in the Commons on the Prince of Wales's Debts.] April 27. Mr. Alderman *Newnham* begged leave to remind the House, that he had lately given what he deemed a satisfactory answer in explanation of the motion which he intended to make respecting the affairs of his royal highness the Prince of Wales. He assured the minister that he need entertain no apprehensions of its being productive of any of those disagreeable effects which he so much deprecated; for it was as much his intention as it was his duty to make such observations as he intended to offer, with the most perfect respect and attention to his Majesty; and in so doing, he was perfectly convinced that he should act most to the advantage of the cause, and most consonant to the wishes of the royal personage who was the object of the motion. He was sorry that his motion had not been anticipated by persons in office, to whose duty he thought it most peculiarly belonged; but, understanding that there was no prospect of any proposal from that quarter, he thought that it behoved him, feeling as he did for the honour of the country and the embarrassment of the Heir Apparent, not to be wanting on his part to contribute towards extricating him as soon as possible. In order, then, to explain the object of his motion, so that no mistake might be made, he intended that it should run somewhat to the following purport, "That an humble Address be presented to his Majesty, praying him to take into his royal consideration the present embarrassed state of the affairs of his royal highness the Prince of Wales, and to grant him such relief as his royal wisdom should think fit, and that the House would make good the same."

Mr. *Rolle* said, that he felt much con-

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cern, after what had passed on the subject, to find that the worthy magistrate still persisted in his intentions to bring forward a motion of so delicate a nature. If ever there was a question which called particularly upon the attention of that description of persons, the country gentlemen, it would be the question which the hon. alderman had declared his determination to agitate, because it was a question which went immediately to affect our constitution in Church and State. Whenever it should be brought forward, he would rise the moment the hon. alderman sat down, and move the previous question, being convinced that it ought not to be discussed.

Mr. *Sheridan* declared himself impressed with as high a sense of the magnitude and importance of this subject as any person could possibly be. He felt, in common with other members, an extreme degree of reluctance in discussing as a question, what, if it came from another quarter, could admit of no controversy. But looking to the circumstances, and above all, the proceeding of his Royal Highness under every difficulty, and keeping in mind what was due to the dignity, the honour, and the gratitude of the whole British empire, he would not confine the interest of the question to the country gentlemen alone, respectable and highly revered as they ought to be; and should not hesitate to declare, that every individual of the state was deeply concerned in the subject of the motion. He differed much from those who represented, that alarming consequences might ensue from the present motion, and that the existence of the Church and State were endangered by its agitation: he did not well know what precise meaning to affix to expressions of this kind, but he was well convinced that the motion originated only in a consciousness of the unparalleled difficulties under which the Heir of the Crown was so long suffered to labour. Those persons very much mistook both the conduct and character of what were called the Opposition, who imagined that they wished to take any political advantage of differences subsisting between any branches of the royal family: on the contrary, there was no circumstance to which they looked forward with more anxiety and zeal, than that the illustrious son should be restored as fully and speedily as possible to the confidence and affection of his royal father. But in addition to the expressions of which he had already taken notice, there was another which, coming as it did from the minister on a former day, was the more entitled to serious observation: he meant an insinuation that there were circumstances which must come out in the discussion of this question, to show the impropriety of granting the assistance required. On a suggestion such as this, it would be ridiculous indeed for any person to obtrude himself without at least sufficient authority; and for his part he could declare, on the very best and the highest authority, that neither the friends of the Prince, nor his Royal Highness himself, had any other wish than that every circumstance in the whole series of his conduct should be most minutely and accurately inquired into, and that those who felt most for his situation were ready to meet, and anxious to enter upon, every species of investigation that should be suggested. It was his Royal Highness's decided wish, that no part of his conduct, circumstances, or situation should be treated with ambiguity, concealment, or affected tenderness; but that whatever related to him should be discussed openly, and with fair, manly, and direct examination. Mr. Sheridan remarked, that he expected that long before this the awkwardness of discussion would have been prevented by relief from another quarter; and such was the reluctance which he felt in agitating the question in a hostile manner, that, short as the period was between this and the day announced for the motion, he still trusted that something might be done in the way of accommodation, so as to render it unnecessary: every person was convinced how much the circumstances of the Prince were in need of assistance, and he was much surprised that, feeling as they did, even his Majesty's ministers should not have used their influence long before this to obtain so wished-for an object. Whatever was brought forward, he knew would meet with an unequivocal and complete reply, such as, he was assured, his Royal Highness would himself give as a peer of Great Britain, were a question of this nature to be agitated in another House. How far such a discussion might be proper, he left to the feeling of the gentleman to whom he alluded to decide.

Mr. *Rolle* declared, that no person could feel at heart more loyalty for the Monarch upon the throne, or his Royal Highness, than he possessed; but if a mo-

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tion was urged, which he thought highly improper to be proposed, the hon. gentleman would find that he would not flinch from it, but act as it became an independent country gentleman to act upon such an occasion, and state without reserve his sentiments, according as the matter struck him. He said, he had nothing to expect from his present Majesty, nor from his successor; but he would do his duty, and oppose a motion which might produce serious differences between the father and the son.

Mr. *Dempster* felt as much as any other member for the honour of the nation and the embarrassments of the Heir to the Crown; but he was equally solicitous to avoid the mischievous effects which might flow from the motion, and he trusted, that before the appointed day, the hon. Alderman would be induced to forego it, or the Minister find means to anticipate its object.

Mr. *Pitt* repeated those professions of good-will towards his Royal Highness which he had before expressed, and said he was very much concerned, that, by the perseverance of the hon. member, he should be driven, though with infinite reluctance, to the disclosure of circumstances which he would otherwise think it his duty to conceal. Whenever the motion should be agitated, he was ready to avow his determined and fixed resolution to give it an absolute negative. Whatever might be the representations of his conduct from certain quarters, he felt that this was what his duty to the Sovereign, his duty to the Public, and his concern for the real interest of the Prince of Wales himself, most decidedly impelled him to. The manner in which the purport of the motion was now stated to the House, did not by any means render it the more acceptable to him; for he was ready to contend, that this, of all others, would be the most improper and unjustifiable motion which could be proposed, both as to its mode and its substance. With regard to the insinuation which he was accused of making, he would only declare that he was perfectly misunderstood; and so far from stating any thing in the way of insinuation, he was willing to assert, that there were circumstances which he should find it his duty to make known, that would satisfy the House of the impropriety of complying with the motion, even if it were not otherwise irregular. He confessed that there was nothing he should wish more to avoid than a discussion of such a nature; he was sensible of the various ill consequences it would be almost certain of producing to the tranquillity of the public as well as of the royal personages concerned; he therefore hoped, that on mature deliberation the worthy Alderman would be induced to forego a motion of so injurious a tendency.

Mr. *Hussey* added his intreaties, that the worthy magistrate would not persist in his purpose, and in very pressing terms expressed his wishes that the House might not be called upon to hear a motion that must bring on a discussion likely to involve in it matters of the most delicate nature, which ought not on any consideration to be mentioned in that assembly, and could scarcely fail to produce the most mischievous consequences, consequences that he deprecated most sincerely.

Mr. *Powys* apologized for not having been in the House at the beginning of this conversation; for such were his impressions of the magnitude and importance of the subject, that no consideration whatsoever should have induced him to be absent from his duty, if he had had any intimation that it was to come on. The report of the business had spread an alarm through the country, and produced the utmost anxiety and uneasiness amongst the country members, and, he believed, generally amongst every other description of persons. Instead of hearing this day a fresh notice given, with explanations of what might be the substance of the motion, he rather expected that the worthy magistrate would have come and asked pardon of the House for the impropriety of his conduct, and excused himself from any further procedure in the business. Had he been particularly applied to, or authorised to engage in the affairs of his Royal Highness, there might be some excuse for his persevering in his motion; but coming forward as a private individual, barely on his own suggestion, to agitate a subject too delicate for the interference of the Administration of the country, was a proceeding for which he was perfectly at a loss to account. He declared, that as there never was a question which appeared to him of more concern, so never was there one in which he felt so much, or was so incapable, from agitation, of expressing what he was anxious to say; but he trusted, that every person who wished well to his country, or was attached to the family on the throne,

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would use every possible effort to prevent this question from being agitated.

Mr. *Drake* said, that no gentleman's breast was fraught with more ardent loyalty towards his Sovereign than his own; his feelings of love and reverence for his Royal Person, and for that of every one of his most illustrious family, were indescribable; and therefore, after the noble manner in which the most honoured and honourable men had that day distinguished themselves, he hoped to be permitted to rise, not as presuming to call himself one of their description, but, as their copyist and humble imitator, to join his feeble voice to theirs, and intreat the worthy Alderman to desist from his purposes. He joined his supplication to their supplications, and his deprecation to their deprecations. Such a conduct, far from affecting either his honour or his consistency, would allay the apprehensions so prevalent over the country; and then it might be said of the Alderman, "Ille regit animos dictis, et pectora mulcet."

Mr. Alderman *Watson* said, he had no idea that the worthy magistrate meant to be considered as wishing to bring forward his promised motion as an individual member of parliament, and upon the mere suggestion of his own mind; but if that were truly the case, he trusted that his hon. friend would not persist in a motion which appeared to be far from agreeable to the general sense of the House.

Mr. *Sheridan* contended, that the respectful manner in which the Address to his Majesty would be couched, must do away all apprehensions of jealousy or disunion arising from the proposed motion: were any such effects expected, it should be the duty of ministers to obviate them by anticipating the purpose of what the Alderman intended to submit; nor was he able to comprehend why the notice of this measure should have produced any alarm amongst the country members, who must be aware that the Prince should not be suffered to continue in such embarrassed circumstances, and that the motion must inevitably come from one quarter or the other. With regard to the mode of the motion being brought forward, he was of opinion, that the proposed one was the best which could be adopted; for as to the amount of his Royal Highness's debts, he believed that this could not well be ascertained, his creditors being so grateful for the liberal manner in which he acted, that they had not yet brought in their accounts. However, the necessity of the case made it indispensable to use some means, and he would put it to either side of the House, or any individual in it, whether, after what had passed, there was any possibility of the motion being given up: insinuations had been thrown out in the first instance, and converted into assertions that day, which the honour and feelings of the parties made it necessary to have explained; and should the gentlemen engaged now recede from the measure, the natural inference would be on the part of the public, that they were afraid of the circumstances which were threatened to be brought against them, and, not daring to meet the discussion, were at last reduced to forego their motion. Some honourable gentlemen had thought proper to express their anxious wishes that the business should be deferred; but the right hon. the Chancellor of the Exchequer had erected an insuperable bar to such a measure. He appealed to the right hon. gentleman's own candour, whether that House, whether the country, whether all Europe could form any other opinion of such behaviour, than that the Prince had yielded to terror what he had denied to argument. What could the world think of such conduct, but that he fled from inquiry, and dared not face his accusers? But if such was the design of these threats, he believed they would find that the author of them had as much mistaken the feelings, as the conduct of the Prince. With respect to its being supposed that the party with whom he (Mr. Sheridan) had the honour to act, had been guilty of fomenting the unhappy divisions which were conceived to exist in the Royal Family, the charge was as false as it was foolish. Such a difference, so far from assisting, must materially injure those who were not admitted into his Majesty's councils, and whose opposition was not founded on any little personal animosities, but on broad, solid, constitutional ground.

The Speaker put an end to the conversation for the present, by calling upon Alderman Newnham to bring up a petition, which he had in his hand. However, in the course of the evening,

Mr. *Pitt* rose and said, he would embrace that opportunity of again bringing forward a subject, the singular importance of which would, he flattered himself, sufficiently apologize for the irregularity he

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was guilty of; he meant by re-calling the attention of the House to the former subject of conversation, his royal highness the Prince of Wales. As he found that several persons had imagined, what had fallen from Mr. Sheridan to have applied to something he had said, he wished to remove the possibility of misinterpretation, especially as that hon. gentleman had stated that the insinuations which had been thrown out, made it impossible for the friends of the Prince of Wales to withdraw their motion. From the sentiments thrown out by so many respectable members, and from the general feeling of the House, he was persuaded there was almost an unanimous opinion that the motion ought not to be brought forward, and nothing which he had said could afford the slightest colour of argument for persisting in it. He said, that the particulars to which he alluded, and which he should think it necessary to state more fully to the House, related only to the pecuniary situation of the Prince of Wales, and to a correspondence which had taken place on that subject, and that this had no reference to any extraneous circumstances. Yet every one must be sensible that this correspondence in itself must contain matter of too delicate a nature to be a fit subject of public discussion, if it could be avoided.

Mr. *Sheridan* was extremely glad the right hon. gentleman had explained himself, because, undoubtedly, as he had left the matter the other day, the interpretation of the right hon. gentleman's declaration had been the very construction which he had now so fully cleared himself from having had any intention to convey. As to that matter, any sort of allusion to it would have been in the extremest degree indelicate and disrespectful. The right hon. gentleman, however, had convinced him he did not mean to make any allusion but to the pecuniary embarrassment of his Royal Highness.

Mr. *Pitt* said, that if any person in the House had understood him in the way represented by the hon. gentleman, he was very glad to have had that opportunity of removing such an impression; but that he could not acquiesce in the idea that any expression which had fallen from him on that or any former occasion, was liable to the construction attempted to be put upon it; and that he trusted, from what the hon. gentleman himself had said, that he would now be ready to join his intreaties with those of almost every other description of persons to prevent the proceeding farther in a business, which, though he had no doubt it was undertaken from a regard to the honour of the royal family and the interests of the country, must, if persisted in, be productive of consequences most injurious to both.

Mr. Alderman *Newnham* said, he certainly was not so rash and presumptuous as to have taken up the idea of bringing forward a motion undoubtedly of a very novel and delicate nature, upon the bare suggestion of his own mind, as an individual member of parliament; nor, having brought himself to take up a matter of so much importance, was he so weak as to feel any alarm as to any consequence that might be held out, with an interested design to drive him from it. His Royal Highness had, he knew, used every other mode of application possible, to obtain some relief from his present embarrassment; and it was his Royal Highness's earnest desire that he might be rescued from his situation in the manner most respectful and least offensive, where every gentleman must wish the utmost respect to be shown: but it should be remembered, that his Royal Highness's situation was growing worse this year than the last, and, therefore, it was, that he had authorized an application to that House as his last resort. Could he be given to understand that it would be done in any other way, he was sure the wishes of gentlemen who had that day pressed him not to move the address, would be cheerfully gratified. With regard to the right hon. gentleman's explanation, he was very happy to have heard it, because most certainly he had construed his hints the other day, exactly as his hon. friend had done; and surely as to what the hon. gentleman meant, who had talked of Church and State, there could be no manner of doubt; as that matter had nothing to do with an application to the House, to rescue his Royal Highness from pecuniary embarrassment.

State of the Penal Laws.] Mr. *Minchin* said, he would not trespass on any great portion of the time of the House, but endeavour to compress what he had to state in as concise terms as possible. The important subject to which he wished to call their attention, was one which he had again and again intreated other gentlemen, more conversant with it than he could pretend to be, to state; but as his intrea-

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ties had been vain, and he was of opinion, that the topic was of infinite importance, he was obliged to supply their neglect, and conscious as he was of the inferiority of his abilities, and that the course of his studies had not been directed to the subject, to endeavour to call it into notice. All he aimed at, however, was, merely to take the rough stone out of the quarry, and to leave it to be worked upon, refined, and polished by others, who would, by giving it its true lustre, make it appear the valuable jewel it really was.—After an exordium to this purport, Mr. Minchin proceeded to take a review of the present state of the penal laws of the kingdom, in order to show the number of the sanguinary catalogue, and to manifest their inequality, injustice, and inhumanity. He said, an inquiry into the penal laws had taken place a great number of years ago, and that, at that time, it had been found that there were 160 distinct offences punishable with death. Since that period the number had increased very considerably, as every session of Parliament added a variety. He would not enter into a minute detail of what the many crimes were, for the commission of any one of which the subject was liable, on conviction, to privation of life. He would merely speak of them in classes, and in general terms. In the first class, he mentioned high and petty treason, and murder. High treason affecting the life of the Sovereign, he thought, should be punished with death: murder ought also to be so punished, since the precepts of divine as well as human law demanded blood for blood, or, that the person who deprived another of life, ought to be deprived of his own.—After a few observations, he spoke of burglaries, highway robberies, and other depredations on property, and entered into a discussion of the distinctions between the different species of burglaries and robberies, arguing that some of them were irrational, and the punishment, being the same, was very unequally proportioned to the real quantum of the enormity of the offence. He next treated of other and subordinate classes of crimes and their punishments, such as larcenies, and single felonies. He interspersed observations as he proceeded through every class. When upon the subject of the higher classes, he mentioned the singular severity of the laws respecting coining, and said, if a coining instrument were found in the custody of any man, the *onus probandi* of his innocence lay upon him, and in case of failure of establishing it, he must lose his life. This, he said, put it in the power of any malicious foe, or any wicked and spiteful servant, to take away the life of any honest person whatever, since they had nothing to do but convey a coining instrument into his closet, or his pocket, and his life was at stake. Again, among felonies, cutting a hop-bine was death. He dwelt upon this with emphasis, and asked if it were scarcely credible? After expatiating upon the bloody spirit of the penal laws, and instancing a variety of cases in which offences apparently most trifling were punishable with death, he contended that savages would scarcely credit the fact, especially in a country enlightened as this confessedly was and the great character of which was, the humane spirit of its laws. The situation of those laws, therefore, called loudly for a revision and a reform; and with that view it was, that he should offer a motion to the House; but he begged to be understood as meaning to do no more than open a door to the revision and reform of the penal laws. He should leave the inquiry to be made by those most competent to inquire with effect, and suggest the necessary proceedings. In France, under Louis the 14th, a similar inquiry had been made with success. In Italy, and in Russia, the same had been done likewise. He spoke in handsome terms of the Empress and of her predecessor; and after a few more arguments to show that his proposition was not without a sufficient precedent, he explained what the nature of his proposition was, by stating that he meant to move for leave to appoint a commission in the manner of a commission of public accounts, to consist of professional men, but not members of Parliament, to make the necessary inquiry, from whence the principles of the sort of reform most fit to be adopted could arise. He concluded with moving, "That leave be given to bring in a Bill, to appoint certain persons therein named, to examine into the state of all the Penal Laws now in force in this kingdom, and report their opinion thereon to this House."

Mr. *Sloper* seconded the motion, and observed, that there were several acts of a criminal nature, to which capital punishment was not affixed. Amongst these was breach of trust, which he considered to be of a very heinous nature.

Mr. *Pitt* said, that as the subject of the motion was perfectly new, as it embraced

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such an extensive system, and went to such very important consequences, he hoped the hon. gentleman would not persist in pushing it forward this session; particularly as the advanced period would not allow sufficient time for that degree of investigation which such a subject was entitled to. Besides, it would be extremely dangerous to take any step which might have the smallest tendency to discredit the present existing system, before proper data and principles should be established whereon to found another. Such principles ought to be again and again considered before they should be adopted, and ought to be fully weighed and settled by those learned and able men who filled the highest stations in the Law department.

Mr. *Minchin* said, that when the right hon. gentleman had talked of the late period of the session, he must not have heard him distinctly, for he had expressly said, he did not mean that the commissioners should be members of parliament, nor that their inquiry should be final; but that they should be professional men, and the result of their inquiry would afford the principles to ground a reform upon. His meaning was, to have had their report referred to the sages of the law, the Judges, and that they should, ultimately, decide upon what alteration would be wise and practicable. That the matter would be attended with some difficulty, he was ready to confess; but where men of sense were right at setting off, with perseverance, he was persuaded scarcely any thing was impracticable. As to the time of the year, he had chosen it on purpose; as a summer's recess from terms, and from business of another nature, would, in his mind, be the fittest to employ in such a research and revision, as those he had taken the liberty to suggest. He declared, he had not brought the matter forward as a party matter; he had not asked a single friend to come down to support him, as the state of the House proved; and if the right hon. gentleman would say, that he or any other gentleman would take the matter up, he would very heartily withdraw his motion.

The motion, by leave of the House, was accordingly withdrawn.

Poor Laws — Settlement of Bastard Children.] April 30. The House having resolved itself into a committee of the whole House, to take into consideration the laws for the maintenance of the Poor, sir Edward Astley in the chair,

Mr. *Rolle* earnestly entreated the committee to favour him with their attention to a subject in which every man in this country was more or less interested; the state, condition, and maintenance of the poor. It was a subject so extensive in its consequences, that he should not have presumed to have taken the lead in such a very delicate and difficult business, had it not been at the express desire of his constituents, whose plan for the better regulation and provision of the poor, his worthy friend and himself were directed to submit to the consideration of the Legislature. In complying with their wishes, they should be happy in rendering any services to their country; at the same time, feeling the subject to be of the most public concern, they should hope and trust, not only for the indulgence of the committee, but the assistance of the House, in endeavouring to attain, what must be all their mutual wishes, a more comfortable subsistence for the poor, and a diminution of the very heavy and increasing rates. In the object they should not disagree, if they did in the mode. The principle, he was confident, the more it was examined, the more it would be approved of. If the principle were admitted, any alterations or amendments in the detail would be matters for future regulation. Wishing the plan to be duly considered, and thoroughly understood by the country before it was discussed, he should, for the present, only propose to bring in the Bill, fill up the blanks in the committee, and print it for the consideration of the members during the recess, to which he hoped there was no objection.

He should not go minutely into the detail, but confine himself to the great outlines, with a few introductory observations. It was not his intention to move a repeal of any of the existing laws, as it was one recommendation of this plan, that it was not meant to repeal, but to aid, strengthen, and enforce them. Experience convinced them of the necessity of amendments from their present inefficacy. Whether these defects were in their formation or in their execution, he would not then discuss. This plan had four principal objects in view, maintenance, settlement, vagrancy, and bastards. Whether it might not be proper to have a separate Bill for each, would be matter for future consideration. He wished them all to remain in the present

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Bill as component parts of one great system. To prove the increase of the poor, and the intolerable burthen of the rates, he need only appeal to the feeling of every person who paid the rate. If any entertained doubts, he would refer them to the returns before the House, and to the observations of a very respectable member, whose indefatigable attention to that subject entitled him to the thanks of his country. They would find that the medium annual expenses of the years 1783,4, and 5, were at least half a million annually more than they were in 1776, exclusive of casualties. This increase might be attributed to various causes, the difference in the value of money, the advanced prices in almost every article of life, the luxury and dissipation of the age, the immorality and bad example of the great and opulent, too often copied, and too frequently adopted by their inferiors and dependants, or inattention to the education of the young, by not training them up in a way to get their livelihood, and to become useful members of the community; an aversion to labour and industry in some who spend every thing in the prime of life, from a firm reliance and certainty of being finally supported by parish relief. There were others who had the inclination, but not the means or encouragement. The desertion and decay of family mansions was a very serious injury and loss to the poor in the country. In the decrease of labour, temporary assistance in the time of need or sickness, by being opportunely applied, might save many from ruin, destruction, and an untimely end. The most idle and reprobate pauper in this metropolis had many more advantages than the most industrious in the country. Perhaps the former was supported by the very bounty which had been derived from the sweat of the brow of the latter. He supposed that charity was too frequently abused. He did not give this as a general rule without exceptions. These were misfortunes, which, from the temper and fashion of the times, could not be cured. There was another cause for the decrease of labour, and its consequence, population. The enlargement of farms, by throwing two or three into one. Each most probably before afforded a maintenance to a distinct family, employing more servants and workmen than when consolidated. This might be prevented; but it made no part of the present scheme.

The object of this plan was, to afford comfort and consolation to the poor, to relieve the distresses of the subject, to give a spur to industry, to promote eccomy, and to encourage population. The measure was founded on the basis of the present friendly clubs or societies, which had been successfully established, and advantageously adapted to the comfort of the poor, and the diminution of the rates in many counties. They had constantly flourished under many disadvantages — the uncertainty of the tenure—the fluctuation of the body—the insecurity of the fund — the misapplication and often embezzlement of the capital, without any legal power of restoration or restitution. These obstacles were all removed by this scheme, which established one general club or fund throughout the kingdom, with permanency to the body and security to the capital. The fund was to be raised by obliging the rich, in a certain limited proportion, to become contributors to the benefit of the poor, and to oblige the poor, whilst young and in health, to contribute towards their own support when disabled by sickness, accident or age. This might, at first view, be thought an oppression of the poor to the advantage of the rich. The advantage to the rich he would admit, but not the oppression; on the contrary, it would prove the means of affording them ease, comfort, happiness, and satisfaction. It might be said, were not the rich bound to maintain the poor? Were their estates free till they had paid those taxes? Was it not then unjust to relieve their own shoulders to lay it on the poor? If the fact was true, that the tax would fall wholly on the poor, he would acquiesce; but he was clear that it would fall alternately on the employer and farmer, in such a proportion as he could not object to.

He would first state the terms of subscription by the poor; then the comforts and benefits it would insure; and, likewise, the advantage it would be to the rich. The weekly subscription of 2*d.* each would entitle a person to 4*s.* when confined in bed; 2*s.* walking; 1*s.* per week for each child above two years of age; 10½*d.* after 65, if unable to get 3*d.*; 1*s.* 4½*d.* after 70, and 3*s.* after 75, or sooner, if incapable of all labour. The subscription for women was 1½*d.* weekly. By so small a subscription out of the savings of youth, he would insure a certain subsistence in the times of sickness, accident or old age; an increase of children would not be dreaded,

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as it would prove an increase of resource, and prevent the dread of leaving them to the mercy of the parish, or unprovided for at their death; they would never be liable to be dragged from their residence to be imprisoned in the walls of a distant workhouse. They might have an opportunity of spending their latter days wherever it was most comfortable and convenient. They would be free and independent, and would not be subject to the oppression or tyranny of a parish officer; these benefits and comforts would be alone sufficient to do away all suspicion of oppression; but he could add others. There was one, which he considered to be the natural right of every subject—that he should have an opportunity of earning his bread without molestation, wherever it was most convenient; and he would enjoy the liberty of removing whenever he pleased, on the production of a certificate of his subscription and settlement. With this security he might be allowed to continue his subscription wherever he resided. This certificate would have a tendency to check unnecessary and expensive litigation, and to the discovery and commitment of the real vagrant. There was another exemption in this Bill from a tax which was a manifest oppression of the poor to the sole benefit of the rich, to be obliged to compound or work in the repair of roads, which he seldom if ever travelled.

Having stated the benefits to the poor, he would now point out the advantages to the rich. Even to be the means of affording such comforts would be in itself a sufficient satisfaction for the adoption of the measure. He would likewise prove it to be a saving to the rich, by the statement of a case, and that in the strongest manner. He would suppose a gentleman to have a farm at 200*l.* a year, and that the complement of the servants and workmen were fifty, double the number sufficient to manage it; he would suppose the present rates to be 2*s.* 6*d.* in the pound, total 25*l.* the subscription for each servant to be 8*s.* per annum. If the owner or occupier paid the whole for fifty, the total was only 20*l.* per annum, a clear saving of 5*l.* per annum. If twenty-five servants, then there would be a saving of 10*l.* There was one other clause, which he most heartily approved of, with respect to bastard children. By the precept at present, wherever the child was born he was settled. This had been frequently the occasion of the most cruel treatment. By this plan, the mother was to be examined, but not removed, and her settlement was to be the settlement of the child. —Having given the outlines of the plan very imperfectly, he said he should hope there would be no objection to submit the plan to the consideration of the Committee. It was a subject which called loudly for their attention. It called more particularly for the attention of his Majesty's Government, because every regulation which tended to relieve the distresses of the poor, to promote population and diminish the rates, must in its consequences better enable the subject to pay the necessary taxes of the state, and to strengthen the kingdom.

Mr. Young and Mr. Gilbert said a few words each, in favour of the plan, after which the motion was agreed to, and the chairman reported it to the House, as follows: "That leave be given to bring in a Bill for the more effectual relief of the Poor, and ascertaining the settlement of Bastard Children."

Debate on the Prince of Wales's Debts.] Mr. Alderman *Newnham* rose, in consequence of what had passed on Friday. He had, on that day, declared, that, in bringing forward a motion with a view to rescue the Prince of Wales from his present embarrassed situation, he was actuated by motives of the sincerest loyalty, and the most profound respect and reverence for his Majesty, and that as a mode the least liable to exception, he had thought of an humble Address to his Majesty; but in giving notice of such his intention, he had himself desired not to be considered as pledged to the wording of the Address. On that occasion, the Chancellor of the Exchequer had stated, that of all other modes of application, that of an Address to the Throne was the most exceptionable that could be chosen. As therefore his wish was to make the application in a mode the least exceptionable, he rose to desire not to be pinned down to the mode of applying by an Address, and to say, that if the right hon. gentleman would point out a mode of application the most unexceptionable, and the least likely to provoke resistance, he would readily adopt that mode in preference to any which might occur to him. On Friday last, much personal application had been made to him from various quarters of the House, to press him to forego his purpose; and much had been said of the dangerous

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consequences which might result from the discussion of such a subject. One gentleman had gone so far as to contend, that it would draw on questions affecting Church and State. That expression, coupled with certain hints which fell from the Chancellor of the Exchequer, had induced him, as well as other members, to suspect, that in order to deter him from persisting in bringing forward the motion, matters of singular delicacy were to be agitated without reserve. The Chancellor of the Exchequer had indeed explained his meaning in a way satisfactory to the House, and in his opinion, the gentleman who had made use of the expressions relative to Church and State, was bound, as a man of honour, to come to an open explanation of what he meant by the allusion. Mr. Newnham said, though he might be thought rash and presumptuous, had he given notice of his intention to move the House on so delicate a subject, on the suggestion of his own mind, and as a private and individual member of parliament, he trusted that he should not, even in that case, have shown himself to possess such weak nerves, as to be alarmed and driven from his purpose by any remarks which had been made in the course of that day; but as he was not that rash and presumptuous man, but had been authorized by his Royal Highness to make the proposed motion and to agitate the subject, the House could not suppose, let his nerves be ever so weak, that the Prince was to be terrified and driven from his purpose, by idle and groundless apprehensions. His Royal Highness, he was authorised to say, would not shrink from any inquiry, of any sort which the discussion of the subject might make necessary; but at the same time it was his Royal Highness's real desire, that the business might be conducted in a way the most respectful and the least exceptionable, and therefore, Mr. Newnham said, he wished not to be pinned down to an application by Address, since the Chancellor of the Exchequer had pronounced that to be the most exceptionable mode of application, and a mode which he was determined to resist.

Mr. *Fox* observed, that not having heard that a subject of so much delicacy and importance was likely to be at all alluded to on Friday last, he had not come down to the House on that day. On a former occasion, when the worthy Alderman had given notice of his intention to proceed by moving an Address, he had heard the Chancellor of the Exchequer throw out certain hints, which appeared to his mind extremely like a menace, and that of a very extraordinary nature; but those hints had, he understood, on Friday last, been much narrowed by explanation, and confined to certain correspondence and letters which had passed upon the subject without doors. On Friday he had learned that an hon. friend of his had answered what had been said by an hon. gentleman over the way, and had declared, that he did not speak lightly, or without authority, when he asserted, that his Royal Highness did not wish to shrink from any inquiry which it might be thought necessary to institute. In like manner, Mr. Fox said, he desired to be understood as not speaking lightly, but as speaking from the immediate authority of the Prince of Wales, when he assured the House, that there was no part of his Royal Highness's conduct that he was either afraid or unwilling to have investigated in the most minute manner. With regard to the private correspondence alluded to, he wished to have it laid before the House, because it would prove that the conduct of his Royal Highness had been in the highest degree amiable; and would present an uniform and a perfect picture of duty and obedience; as much so as ever, in any instance, had been shown from a son to his father, or from a subject to his sovereign.

With regard to the debt, which was the cause of his embarrassment, his Royal Highness, if the House should deem it necessary, was willing to give an account in writing of every part of it,—not of every single sum, or even of every thousand pound, for such an account the good sense of the House would see to be improper, if not impossible,—but a general and fair account; and if any part of it was doubted, from a suspicion that this or that article of the account comprehended any sum or sums of money indirectly applied, his Royal Highness would give a clear explanation of the particulars, not to the House at large, indeed, but to his Majesty, or to his Majesty's ministers. He had not the smallest objection to afford the House every possible satisfaction, and there was not a circumstance of his Royal Highness's life which he was ashamed to have known.

With respect to the allusion to something full of "danger to the Church and State," made by the hon. gentleman, one

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of the members for the county of Devon, till that gentleman thought proper to explain himself, it was impossible to say with any certainty to what that allusion referred; but he supposed it must be meant in reference to that miserable calumny, that low malicious falsehood, which had been propagated without doors, and made the wanton sport of the vulgar. In that House, where it was known how frequent and common the falsehoods of the times were, he hoped a tale only fit to impose on the lowest order of persons in the streets, would not have gained the smallest portion of credit; but when it appeared that an invention so monstrous, a report of a fact which had not the smallest degree of foundation, a report of a fact actually impossible to have happened, had been circulated with so much industry as to have made an impression on the minds of the members of that House, it proved at once the uncommon pains taken by the enemies of his Royal Highness to propagate the grossest and most malignant falsehoods, with a view to depreciate his character and injure him in the opinion of his country. Mr. Fox added, that when he considered that his Royal Highness was the first subject in the kingdom and the immediate heir to the throne, he was at a loss to imagine what species of party it was that could have fabricated so base and scandalous a calumny. Had there existed in the kingdom such a faction as an Anti-Brunswick faction, to that faction he should have certainly imputed the invention of so malicious a falsehood; for he knew not what other description of men could feel an interest in first forming and then circulating, with more than ordinary assiduity, a tale in every particular so unfounded, and for which there was not the shadow of any thing like reality. This being the fact, and as the occasion had made it necessary for him to declare as much, he hoped that it would have this good effect upon the House and upon the country, that it would teach both the one and the other to distrust the reports circulated to the prejudice of the Prince, and lessen any opinions that they might, in consequence, take up injurious to the character of his Royal Highness, who might be said to be a person in whose fair fame that House and the country were deeply interested. The whole of the debt the Prince was ready to submit to the investigation of the House; and he was equally ready to submit the other circumstance to which he had alluded, to their consideration, provided the consideration of a House of Parliament could, consistently with propriety and decency, be applied to such a subject. Nay, his Royal Highness had authorized him to declare, that, as a peer of Parliament, he was ready in the other House to submit to any the most pointed questions which could be put to him respecting it, or to afford his Majesty, or his Majesty's ministers, the fullest assurances of the utter falsehood of the fact in question, which never had, and which common sense must see, never could have happened.

Mr. Fox said, he had thought it incumbent on him to say thus much in justification of his Royal Highness. He had only to add, that his Royal Highness certainly wished to have his situation taken into consideration; and that when it came under discussion, he had no desire to be regarded as wishing to shrink from any inquiry of any sort whatsoever. With regard to the alarming consequences talked of as likely to be the effect of such a discussion taking place, he saw no reason to dread any such consequences. Painful and delicate the subject undoubtedly was; but he must all along consider, that however painful it might prove, and however disagreeable the consequences might be, they were ascribable solely to those who had it in their power to supersede the necessity of his Royal Highness's application to Parliament to relieve him from a situation embarrassing to himself and disgraceful to the country. In conclusion Mr. Fox declared, that he thought the cause of the Prince the cause of every man who knew the true use of monarchy, and looked upon the family of the Sovereign as the property of the people, and as those in whom their dearest and most essential interests were so involved, as to make the happiness of the one the security of the other.

Mr. *Pitt* solemnly declared, that no consideration whatsoever should have induced him to contest with other gentlemen, but the extreme importance of the subject, and his anxiety to do those most intimately concerned the fullest justice. He lamented to find that the notice which the hon. Alderman had given was now again renewed. He should not at present enter into a debate upon the question; but must observe upon what fell from the right hon. gentleman who spoke last, that

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it little became him to throw out hints and insinuations evidently calculated and intended to fall somewhere, and upon some person, whom though he had not mentioned him, he seemed to expect the House would be able to discover. Such expressions as the right hon. gentleman had used, he was convinced no member would expect him to answer; as the right hon. gentleman did not choose to point his own charge against any individual, neither should he point it for him. The hon. gentleman to whose words, in a former conversation, the right hon. gentleman had alluded, had, with that zeal which became a good subject, interposed in common with many other respectable members, with his intreaties to the hon. magistrate, not to force the House to the discussion of a subject which was of all others to be most avoided, and which he looked upon himself as bound in duty to the public, to the Prince, and to the Sovereign, to prevent if possible. One observation he had to make to the hon. Alderman: he had seemed to understand that his principal objection was to the form in which he meant to bring the business forward; but in this he was mistaken; for his opposition would go to any proposal whatsoever of originating such a subject in that House; so that in fact the mode or form could have very little weight in his consideration, disapproving as he did most completely of the substance.

Mr. *Rolle* said, that after the pointed manner in which he had been alluded to, it was necessary to say a few words. He then declared, that he had the sincerest loyalty for his Sovereign, and the highest respect for his successor; but whenever a question of a public and an important nature came to be agitated in that House, he would be found firm enough to do his duty, let it affect whomsoever it might. With regard to the money which might be wanted, he should not so much mind the sum; but then an account of the debt, and of the manner of its having accrued, ought to be laid on the table; for how could any member vote away the public money, unless they knew what it was for? But it ought to be remembered that the Prince was allowed a splendid income, that his Royal Highness's grandfather had not so much as he enjoyed, and he had a family to maintain. There had also been the revenues of the Duchy of Cornwall added to his income, which were material considerations. The right hon. gentleman had touched upon the very matter to which he had alluded, when he on Friday last called upon the country gentleman to attend to a question which would affect both Church and State. That matter had been stated and discussed in newspapers all over the kingdom, and it had made an impression upon him, and upon almost all ranks of men in the country, who loved and venerated the constitution. The right hon. gentleman had said it was impossible to have happened. They all knew that there were certain laws and acts of parliament which forbade it; but though it could not be done under the formal sanction of law, there were ways in which it might have taken place, and those laws in the minds of some persons might have been satisfactorily evaded, and yet the fact might equally be productive of the most alarming consequences. It ought therefore to be cleared up.

Mr. *Fox* answered, that he did not deny the calumny in question merely with regard to the effect of certain existing laws, alluded to by the hon. gentleman; but he denied it *in toto*, in point of fact, as well as law. The fact not only never could have happened legally, but never did happen in any way whatsoever, and had from the beginning been a base and malicious falsehood.

Mr. *Drake* said, that he had joined in the chorus of deprecation and intreaty on Friday last, in order to persuade the worthy Alderman to desist from his intended motion, and he had done so, because he wished rather to conciliate, than exasperate; to repair, rather than to widen the breach in that illustrious family, to which he felt the utmost respect to be due.

Mr. *Rolle* rose again, and asked whether in what had fallen from the right hon. gentleman, he had spoken from direct authority?

Mr. *Fox* declared, that he had spoken from direct authority.

Sir *Edward Astley* observed, that it gave him great pleasure to have heard from such high authority, a direct contradiction of a report which had been so freely circulated in newspapers, and made the subject of an infinite number of prints, that it had effected a very great and general impression on the public. With regard to the Prince's situation, he declared that he wished he could be relieved from it and made easy. There could scarcely exist a gentleman of any feeling, who would not be hurt upon walking

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down Pall Mall and observing the present condition of Carleton House. What must foreigners in particular think of the country in which the Heir Apparent of the throne was not enabled to finish a place fit for his own residence? He knew that opinions highly injurious to our national character had been entertained by several foreigners on that account. He heartily wished, therefore, that means were taken to enable the Prince to complete the building.

Mr. *Sheridan* said, it would be extremely unhandsome in the hon. gentleman, who had called upon his right hon. friend to say whether he spoke from direct authority or not, to sit silent after having received so explicit an answer.

Mr. *Rolle* replied, that nothing which the hon. gentleman could say, would induce him to act otherwise than to his judgment should appear to be proper. The right hon. gentleman certainly had answered him, and the House would judge for themselves of the propriety of the answer.

Mr. *Sheridan* observed, that the hon. gentleman, after having put a pointed question, and received an immediate answer, was bound, in honour and fairness, either to declare that he was satisfied, or to take some means of putting the matter into such a state of inquiry as should satisfy him. To remain silent, or to declare that the House would judge for themselves after what had passed, was neither manly nor candid. If, therefore, the hon. gentleman did not choose to say that he was satisfied, the House ought to come to a resolution, that it was seditious and disloyal to propagate reports injurious to the character of the Prince of Wales, and thus by authority discountenance the report.

Mr. *Rolle* said, it was his affection for the Prince, and his desire that he should stand well with the country, which had induced him to state that he had heard reports of a nature injurious to his character. He had not invented those reports, but merely said, that he had heard them, and that they had made an impression on his mind. With a view to ascertain how far they had been founded, he had put the question to the right hon. gentleman; and in so doing, he was persuaded that he had not acted in an unparliamentary manner.

Mr. *Pitt* defended Mr. Rolle. He declared he had never heard so direct an attack upon the freedom of debate and the liberty of speech in that House, ever since he had sat in Parliament. The privilege of forcing injudicious and distressing motions on the House still remained to every gentleman who chose to avail himself of that freedom, and it was extraordinary indeed to see an attempt made to restrain other gentlemen who wished to interfere for the purpose of deprecating such motions. The gentlemen who took so warm a part in the business on the other side of the House, should rather be obliged to the hon. member who was the first to suggest a question, which had been the means of bringing forward so explicit a declaration on so interesting a subject, and one which must give complete satisfaction, not only to the hon. gentleman himself, but to the whole House.

Mr. *Sheridan* answered, that most undoubtedly the freedom of debate ought to continue unlimited and unrestrained, and no man could wish more sincerely than he did, that it should; but he must deny that he had said any thing which looked like an infringement of that freedom. An hon. gentleman first threw out an insinuation, that something affecting the safety of Church and State was involved in a question about to be brought on relative to the Prince of Wales; that insinuation was met by a direct refutation of the calumny to which the insinuation pointed, coupled with an offer that his Royal Highness was willing to stand up in his place as a peer of Parliament, and answer to any questions that might be put to him on the subject. The hon. gentleman then desires to know, whether the refutation comes from authority, and he is told explicitly that it does; and then he refuses either to say that he is satisfied that his insinuation was unfounded, or to take the most effectual means of discovering whether it was so or not. This was the fair state of the case; and he would appeal to the House, whether under such circumstances it was honourable and manly, fair or candid, for the hon. gentleman to remain silent, and whether he ought not either to declare that he was satisfied, or to resort to means of ascertaining the fact; for it was adding in a tenfold degree to the malicious falsehood which had been propagated against his Royal Highness, to say that the Prince had authorised a false denial of the fact. The hon. gentleman, by putting the question to his right hon. friend had, as it were, admitted that a direct answer would satisfy him, and he ought to have said that

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it did, or not to have put the question. He observed, that the right hon. gentleman had himself been obliged to assume, "that the hon. member must be satisfied," since he had never acknowledged that he was so: he must therefore repeat, that the House ought to declare by a resolution, that it was seditious and disloyal to propagate reports injurious to the character of the Prince of Wales.

Mr. *Rolle* rose once more to re-assert, that his affection for the Prince had induced him to put the question to the right hon. gentleman, and the hon. gentleman had not heard him say that he was unsatisfied.

Mr. *Grey* supported what had been said by Mr. Sheridan, and pronounced the conduct of Mr. Rolle, in not making an explicit declaration that he was satisfied, after the explicit answer which he had received, both unmanly and ungenerous. If that hon. gentleman had not received complete satisfaction, the House, he believed, had. Mr. Grey attacked the Chancellor of the Exchequer for having, when the matter had been talked of last week, hinted at the correspondence which had taken place elsewhere, which he had said must be brought forward, if the intended motion were persisted in. Those hints he had at the time considered as menaces thrown out with a view to deter that side of the House from bringing the business on; but the right hon. gentleman had been greatly mistaken, if he thought that those who gave notice of agitating a question upon so important a subject, were unprepared to meet any suggestion or statement which could be made. The means the most unlikely to prevent the discussion had been made use of in order to produce that effect; and the consequence was, that it was now more than ever impossible to wave entering into it in the fullest manner. With regard to the private correspondence without doors, if the right hon. gentleman chose to take advantage of a question respecting a public person, and mingle with it a discovery of what passed in a private correspondence, he must do so; but the House would judge of the fairness and candour of the transaction.

Mr. *Pitt*, in the most positive manner, disclaimed any idea or intention of threat in what had before fallen from him on the subject; nor was it with any view of menace that he would again repeat, that the question must necessarily involve in it considerations of the most delicate nature, and such as could not but give pain and uneasiness to every gentleman in the House, and even to those who brought it forward. But whilst he avowed this reluctance to enter upon it at all, he could not think of relinquishing his duty so far as not to meet it, if forced upon him, with that resolution which became his station; yet, though it was a duty peculiarly incumbent upon him, it also highly behoved every gentleman to whom the harmony and happiness of the Royal Family was dear, to join with him, first, in deprecating the whole of the business; but if unsuccessful that way, in giving it a decided opposition. He was particularly prepared to meet and disprove any arguments which might be brought in support of the necessity of recurring to that House on a subject which could only with propriety, regularity, and decency originate in the Crown; for he had opportunities of knowing, from the correspondence which had passed upon it, that no such necessity could arise from the want of a fit degree of forwardness in another quarter to do every thing which ought to be done concerning it. But as it was a subject to the discussion of which he should be driven with the most heartfelt anxiety, he would not anticipate it, but, on the contrary, postpone it to the latest moment possible.

Mr. *Grey* pledged himself to prove the necessity for the Prince's application, since those whose duty it was to do it had not saved him the trouble of throwing himself upon the generosity of the House of Commons. The situation of his Royal Highness was such as disgraced the country. He and every part of the Royal Family ought to be enabled to live with the degree of splendour worthy of their high rank, but the Prince especially. Here the conversation ended.

May 4. As soon as Mr. Pitt came into the House, a profound silence took place, although there were upwards of 400 members assembled.

Mr. Alderman *Newnham* rose and said: "Sir, I am extremely happy that the motion which I was to have had the honour of making this day, is now no longer necessary; and it is with the most sincere and heartfelt satisfaction that I inform the House, that I decline bringing it forward."*

* On Sunday the 29th, or Monday the 30th of April, an intimation was given at Cumber-

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Mr. *Drake* began with saying, that as he was one who had joined his feeble voice—[as Mr. Drake possessed a most powerful voice and always spoke uncommonly loud, there was an universal roar of laughter]—Mr. Drake with equal good humour joined in the mirth of the moment, and rallied by saying, that undoubtedly his voice was not feeble by nature, but most feeble when weighed with the little importance of the person who possessed it. He had joined, however, his hearty voice to those most respectable men who had endeavoured to persuade the worthy Alderman to desist from his purpose; and his motive for so doing had been a sincere wish to sooth and not to irritate, to calm and not to disturb, to heal and not to wound, where he wished the most perfect harmony and happiness always to prevail. He declared his unfeigned joy at having heard that the motion was not to be made, and observed that it must fill with gladness every heart which felt as it ought to feel, a due respect for parental authority and filial duty and obedience, and a proper sense of the honour of that House and of the country. The time that threatened so much evil was passed, and he trusted for ever passed, and that they should never find any branch of the Royal Family standing forward in that House against the Sovereign, litigant and hostile. Mr. Drake professed his loyalty and attach-

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hand-house, that if the Prince had no objection, Mr. Dundas would be glad to have an interview with his Royal Highness. On this being communicated to the Prince, he sent back word he was ready to see him whenever he should call at Carlton-house. Accordingly, on Wednesday the 2nd of May, late in the evening, Mr. Dundas had a long general conversation with the Prince, which ended with Mr. Dundas's requesting that the Prince would permit Mr. Pitt himself to wait upon him. To that his Royal Highness assented; and Mr. Pitt, in conformity, was with the Prince at Carlton-House the next day (Thursday) for more than two hours: in this long conversation, the Prince stated all his circumstances fully to Mr. Pitt, who then promised to lay the same before his Majesty, and to return an answer as speedily as possible.

Mr. Pitt from thence went immediately to the King, and the same evening a cabinet council was held at nine o'clock, which sat until midnight; when an answer in writing, by his Majesty's command, was dispatched by Mr. Pitt to the Prince, informing him in general terms, that in case his Royal Highness thought proper to withdraw the motion intended to be made the next day in the House of Commons, every thing should be settled to his Royal Highness's satisfaction. Agreeably to this, the motion was the next day (Friday) withdrawn by alderman Newnham, as being no longer necessary; after which, to the infinite surprise of the House, the minister rose up in his place, and said, that he could not see, for his own part, that the motion was then either more or less necessary, than it ever had been; and added, in answer to Mr. Rolle's question, that no terms of any kind were settled, but that matters remained in statu quo.

This proceeding being related to the Prince, his Royal highness, the same night, wrote a letter with his own hand to Mr. Pitt, requiring an immediate explanation of his extraordinary speech delivered that day in the House of Commons. Mr. Pitt, in answer, requested leave again to wait upon his Royal Highness. Accordingly the Minister went on Saturday at noon to Carlton-house, and had another long conference with the Prince, in which his Royal Highness (in order to prevent any more mistakes) gave to Mr. Pitt, in writing, his proposals, which were in substance; viz. 1. The Prince of Wales to have his debts paid off, in part at least. 2. To have a sum granted sufficient to finish Carlton-house. 3. To have such moderate increase made to his annual income as may be sufficient to prevent his running in debt in future.

With these propositions Mr. Pitt took his leave, and on Sunday dispatched them by a special messenger to Windsor to the King; who, on Monday last, returned his answer signed in form by his Majesty's own hand. This answer was on the same day (Monday) delivered by Mr. Pitt to the Prince at Carlton-house, and is nearly to the following effect; viz. 1. That his Majesty was glad to find the Prince of Wales ready to submit his accounts to inspection. 2. That it would be necessary for the Prince, not only to ascertain the whole amount of his debts, but also the particulars thereof, with an exact account how each debt was incurred. 3. That the Prince shall engage not to run in debt in future. 4. That upon the specifications above required, would depend his Majesty's determining upon whether he should agree to the payment of the whole, or any part of the Prince of Wales's debts. 5. That his Majesty cannot think any increase of income necessary, so long as the Prince of Wales shall remain unmarried. This answer cannot be supposed to have been in any way satisfactory to the Prince of Wales.

However, nothing was said upon the business in the House either on Monday or Tuesday, and nothing on those days was done farther than that the Prince on Tuesday sent his commissioners, colonels Lake and Hulse, with Mr. Lyte, his treasurer, to Mr. Pitt, with all his accounts, &c. &c. for the inspection and information of his Majesty.

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ment to his Sovereign, the love of whose people for his royal person had, he said, on a late affecting occasion, been manifested in a way the most evident and universally distinguishing. He declared his anxious wishes that His Majesty might continue to reign over a great, a loyal, and an united people, till the utmost period of humanity; and that when by the course of nature his successor should mount his throne, he might copy the pious example of his Royal Father, and by the same purity of manners, and the same even tenour of conduct, render himself equally the object of his people's love, respect, and reverence. He spoke of her Majesty in terms of enthusiastic esteem and admiration, and, after a variety of expressions of satisfaction in what he styled the "*sunshine of the day*," from the happiness of the event which had occurred, he thanked the House for their indulgence, and declared that the warmth of his feelings had impelled him to deliver the few things which occurred to him in a very disarranged and unconnected style; but the excessive gladness of his heart was superior to eloquence, and the pleasantness of his sensations almost deprived him of the power of uttering his sentiments intelligibly.

Mr. *Pitt* said, he believed he need not say how heartily he concurred in the joy which the hon. gentleman expressed, and which he was convinced every gentleman felt in common with him, at finding that the worthy magistrate had at last discovered, that in consequence of steps very recently pursued by the Prince of Wales, the measure which he had undertaken was unnecessary; a measure which he was convinced none of those gentlemen who intended to support it, would have supported, if they had not been convinced of its necessity, but which those who intended to oppose it, were equally convinced was not necessary. He could not for his own part avoid declaring, that as he had all along considered it to be unnecessary, so he did not now see that it was more so than at the time when the notice was given; but he was extremely happy to find that the worthy Alderman and he were at last of the same opinion upon the subject.

Mr. *Rolle* was extremely glad to find, that a motion which could not be discussed without infinite mischief to the country was withdrawn. What the terms were upon which the difference had been compromised, was an entire secret to him; but if it should hereafter appear that any concessions had been made humiliating to the country, or dishonourable in themselves, he would be the first man to stand up and stigmatize them as they deserved. He hoped, however, that this was not the case, and sincerely rejoiced that the motion was withdrawn.

Mr. *Fox* said, he trusted nothing would occur to disturb the unanimity which every man must wish should distinguish their conduct on an occasion in which all must feel the highest satisfaction; and he would certainly take care that nothing which he said, should cause the discussion of a subject which had much better remain as it was: but it was incumbent upon him to declare, that he was then, as much as he ever had been, convinced, that the motion had been necessary—as much so as he was at that moment convinced that it was no longer necessary. He added, that it would remain to be seen by some substantial acts, whether the motion had been necessary or not.

Mr. *Pitt* said, that he was equally averse from saying any thing that might lead to a discussion of the subject, but he must declare that he knew of nothing which could make the motion less necessary now than it had ever been; for nothing had taken place which might not have been brought about, without any such interference as that which had been resorted to. As to what an hon. gentleman had said, of terms and conditions, he knew of none which had been made; and with respect to substantial acts to which the right hon. gentleman had alluded, there was nothing could be done on one part, except in consequence of certain steps to be previously taken on the other.

Mr. *Rolle* said, that he felt the greatest loyalty for his Sovereign and for every part of the Royal family, whom he should ever wish to see supported with a dignity becoming their rank, and becoming the character of the country: but his feelings went not to the individuals; he had no personal favour to look for or expect, and he wished his future actions to be the test of his conduct. With regard to what he might do in respect to the subject under consideration, he stood there in a public character as a member of parliament, having a public duty to discharge; and therefore he must repeat, that if it should hereafter appear that the terms of the compromise had been humiliating or dis-

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honourable, he should hold it incumbent upon him to declare that they were so, without at all considering whom it might affect.

Mr. *Pitt* said, that as to any apprehensions of dishonourable concessions having been made, there were no concessions of any sort made on the part of that Person, who was the highest and most distinguished alluded to on the present occasion; the conduct which that Person had pursued, was uniform and consistent throughout, and he had not, in any one instance, departed from those principles which had all along influenced him.

Mr. *Fox* observed, that he had said nothing about terms, and that he thought the mention of any thing like terms highly improper, and as objectionable as the right hon. gentleman could possibly think it himself; but as the right hon. gentleman had thought proper to say, that the conduct of one party had been uniform and consistent, it became his duty to declare, that the conduct of the other party alluded to had been equally uniform, and that the most clear and explicit declaration had been made to explain, that nothing but what was most respectful and most proper had ever been intended. It was, therefore, to be hoped, that both parties, by steadily pursuing their separate and distinct lines of conduct, would meet at last, and when the difference which had prevailed should be found to have arisen merely from a misunderstanding, that a complete reconciliation would take place.

Mr. *Sheridan* said, that he did not dissent from the right hon. gentleman's wish, that the conversation should not be prolonged. He did not, however, conceive that the necessity for abridging it, could arise from any apprehension that it could terminate in altercation, or difference of opinion. He could not but believe, that upon that day there existed but one feeling, and one sentiment in the House,—that of a heartfelt satisfaction at the auspicious conclusion to which the business was understood to be brought. He would not enter into the distinctions which the right hon. gentleman had attempted to make. If it was meant to be insinuated that the merit of this presumed reconciliation belonged exclusively to his Majesty's ministers, be it so. The gentlemen who were supposed to be admitted to the honour of his Royal Highness's confidence, would convince them of their sincere anxiety that that end should be obtained, by waving every claim to credit with regard to the means. In truth, the measures which had been adopted, were the result of his Royal Highness's own judgment, which none but those who did not know him, could consider as needing the aid of any other person's council whatever. Mr. Sheridan wished it, however, to be understood, that though his Royal Highness felt the most perfect satisfaction at the prospect before him, in which he was convinced that the idea of relief from pecuniary embarrassment, farther than it gratified the just and honourable feelings of his royal mind towards others, had the least share; yet did he also desire it to be distinctly remembered, that no attempt had at any time been made to screen any part of his conduct, actions, or situation, from their view; and that he had even offered to answer himself any question which could be put to him. That no such idea had been pursued, and that no such inquiry had been adopted, was a point which did credit to the decorum, the feelings, and the dignity of Parliament. He concluded with paying a delicate and judicious compliment to the lady to whom it was supposed some late parliamentary allusions had been pointed, affirming, that ignorance and vulgar folly alone could have persevered in attempting to detract from a character, upon which truth could fix no just reproach, and which was in reality entitled to the truest and most general respect.

State of the Representation of the Commons in Parliament.] May 2. Mr. Alderman *Sawbridge* rose, to make his motion relative to the state of the Representation of the Commons in Parliament. He said, that if he had the attention of no other part of the House, he hoped he should have that of the right hon. gentleman at the head of his Majesty's Exchequer. Two opinions prevailed relative to the state of parliamentary representation; one, that it was unequal, and called for reformation and amendment; the other, that it was sufficiently complete as it was. Those who were of the former opinion would, he presumed, vote with him, and those who held the latter, would of course oppose him. He concluded with moving, "That a committee be appointed to inquire into the present state of the Representation of the Commons of Great Britain in Parliament."

The question being put, that the other

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orders of the day be read, the House divided: Yeas, 101; Noes, 57.

Debate on the East India Budget.] May 7. The House having resolved itself into a committee to consider of the several revenue accounts from India,

Mr. *Dundas* rose and observed, that although the business to which he meant to call the attention of the Committee appeared to be of a nature which would take up much of their time, yet he did not apprehend there was a necessity of taking up a large portion of it during the present moment. It was his anxious desire to lay before the Committee an accurate state of the affairs of India as they now were, and he should mention them without any favourable colouring. There was in that state a subject of much consolation, and he hoped to convince the Committee that there existed no reason for despondency, but that the prospect of India affairs was most flattering. By accounts laid before the House, it appeared the debt in India amounted to nine crore of rupees, or 9,000,000*l.* It was a hard task to make it appear more; but he chose to state it stronger than any other gentleman could do, and at the same time to prove that the resources of the Company were amply sufficient for the discharge of every part of that debt. He then alluded to several observations which had been made on earl Cornwallis's letter, and said he was happy there was an instrument that both parties might argue on, without doubting its authenticity. His lordship had sent home an account of the worst situation of the country; notwithstanding which, he meant to give it in a more unfavourable view, and still maintain his proposition. It had been stated as material for the well-being of the country, that the affairs of India should be public; and he was one who had never disputed that principle. It was a principle which he hoped ever to maintain, not conceiving it proper that a part of the empire should be in the receipt of a revenue of five million, and that assembly not know the disposition thereof, nor that an army of 70,000 or 80,000 men should be in arms, without reasons given to that House why such an establishment was maintained. The extent of patronage, which must necessarily exist, should also be stated to the House. What he meant to bring forward was the disbursement, the revenue, and the establishment. The full amount of the debt, by earl Cornwallis's letter, was about seven million; but he would state it, by bringing it down to May 1, 1787, to be upwards of nine million. By lord Cornwallis's letter, it appeared that his lordship, after stating the disbursements and receipts of the year, intended to pay off one crore by May 1787, which would take off one million.—Mr. Dundas then made several observations on the quick stock of the Company, which he said would discharge two millions more; but, notwithstanding those reductions, he would take the debt at nine million.

He then proceeded into a detail of the revenues, and took the years 1781-2, 1782-3, 1783-4, and 1784-5, to form his average of calculation. He stated the revenues and expenditure of Bengal, Bombay, and Madras, and remarked, that in 1786-7 a clear surplus of revenue existed, to the amount of 180 lacks. The reduction which was to take place in both civil and military expenditure would greatly increase the surplus; and, if such was added to the 180 lacks, he should have no doubt, if it fell to his lot next year again to state to the House the affairs of India, that instead of saying a surplus of 180 lacks existed, that in Bengal alone, after paying every charge, there would be a surplus of two millions. Earl Cornwallis observed, that it would be necessary to send 40 lacks to Bombay and 40 to Madras; but it must be remembered those sums went to the discharge of debt. He stated a surplus of eight lacks to be at Madras, which, added to the surplus of 180 lacks at Bengal, would amount to 188 lacks, from which were to be subtracted 30 lacks, as what he thought necessary for the establishment at Madras, and then there would remain a neat surplus of 150 lacks, after all charges were paid. He argued on the propriety of taking the debt from India by investments to England, which he thought the most political measure that could be adopted. But, before such a resolution was entered into, it would be necessary to inquire concerning the debt of the India Company in England. He then alluded to the estimate of the Court of Directors, by which it appeared that in 1790 there would be a deficiency of 500,000*l.* which deficiency, he said, was for an obvious purpose made; but if they had added the sale of annuities, which they were by Parliament empowered to do, and which would have amounted to 800,000*l.* there would have

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been 500,000*l.* to answer the deficiency, and they would have been qualified to pay 300,000*l.* claimed by Government for army arrears. In the year 1790, the debt would amount to 6,000,000*l.*

He then panegyrized the Company for their late great attention to their commerce, which increased day after day, and went into the particulars of the India and China trade: to the latter place he remarked that great investments were necessary. He formed an average of investments from the year 1766 to 1779, the highest of which did not amount to more than 1,500,000*l.* The surplus of the revenues was sufficient for the investments, when taken at the greatest disadvantage, being 160 lacks, or 1,600,000*l.* The revenues were sufficient to answer investments, without a single farther resource, after every charge was defrayed. The Company had always allowed 300,000*l.* worth of merchandize to be exported to aid the investments, and consequently no occasion would arise for more than 120 lacks for investment; and he believed 97 would be sufficient, as from good authority he understood that as much investment could be gained for that sum as was before gained for the sum of 150 lacks. The revenue, he doubted not, might be greatly increased; but when he said it might be increased, he did not wish it to go out to the world that he meant by an addition on the landed revenue. There was much land uncultivated in our provinces; and if a general system of security were adopted, it might allure many to take asylum under the British government. The provinces belonging to the British empire were now the most flourishing of any in all India, and to the good government of India must this country look for revenue. If once it was known to India that a security of landed property was made in our possessions, all the oppressed in the country of the Mahrattas and Tippoo Saib would much increase the population of our provinces. Though he looked to no increase on land revenue, rather wishing that all might be allowed quit rents, yet, from land, by regulations and giving security to landed property, it was impossible to fail in gaining an increase of the revenue. The next question was the investment to China, and that he contended might advantageously be made from India. He then quoted the authority of Mr. Scott, an eminent East India merchant, who had offered to answer for the investment to India, and had proposed the first year to increase it to 400,000*l.* the second to 500,000*l.* and the third to 700,000*l.* in merchandize, and from India to carry on a trade to China, and to pay out of the profits 500,000*l.* into the Company's treasury at China. The measure was not adopted by the East India Company, because they were confident they could execute it themselves; and it gave him great pleasure that they were persuaded they could execute it. No man, he said, could persuade him but there was a large market opening in India for our exports, and the profits of those exports might go to advance the sale of our manufactures, and graft thereon another profit to China.

The debts of the India Company in this country would not be paid before 1790; it was then to be discovered whether it would be most advisable to bring the debt from India, or pay it there by the surplus; he was decidedly of opinion that the debt should be brought home. It would most probably have been invested here by this time, had they not endeavoured to make too hard a bargain, by offering no more than 1*s.* 8*d.* for each rupee. Above one million was already accepted at those low terms, and he doubted not but for a trifle more, and to remain under 2*s.*, the whole debt would be accepted; as by sending home their investments to their own country, they ran no risk, nor the danger of a foreign country. The surplus in India might go to investments from that payment, and the debt be brought home by way of investment. By the statement of the finances of India, he could hold out to the world that we were disincumbered; that on one hand we had determined to support our allies, and preserve peace by not attempting hostilities; and on the other to defend ourselves, if any design of attacking our possessions, or hostilely behaving to us, should arise: we presented ourselves in India as able to repel any attack; we were ready with a well-disciplined army of 70 or 80,000 men, with a revenue of two millions for peace or for war, if necessary. If the debt was brought home at 5 per cent. it would all be discharged in the year 1797, and there would be a surplus of 42,400*l.* A right hon. gentleman (Mr. Burke) had said on a former occasion, that ten years peace in India was too long a period to reckon on. He wished not to shrink from that assertion; he was

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not ready to admit that we were most likely to be attacked in that quarter; there was nothing to tempt an enemy to an attack; there was no prospect of success for any power in India: there existed a surplus of two millions for investments, which he should think prudent, if a war commenced, to stop, that the sum might go to the prosecution of the war with the greater vigour. Upon what ground, then, could any power attack our Indian possessions? They would have to engage 70 or 80,000 men, with 2,000,000*l.* to support the war, and, in case of need, another 2,000,000*l.* to add to it. The total excess of expence in the last war amounted to no more in one year, upon an average, than two crores three lacks, and there was no reason to expect that any future war could be more expensive; for then we had all India, America, and Europe to fight against, and the surplus of the revenue would be sufficient for any future war. If a war should happen, and there was to be no surplus from India, the China trade would prove sufficient for every investment, to pay a dividend of 8 per cent. to the proprietors of East India stock, and the interest of the whole of the debt. The affairs of the India Company were such as not to cause fears in the minds of the most timorous. If the possessions in India were considered as they ought to be, as the brightest jewel in the British diadem, regulations should be adopted for the good government of the country. The present measure would be a check upon all future governments in that country; and by reports being made every year, that House would know every increase of establishment, and be able immediately to bring such governor to an account for such establishment. The patronage of the East ought to be watched over with a jealous eye; and unless that House so watched it, they would not do justice to their constituents. Mr. Dundas concluded by moving several resolutions, stating the particulars of the finances of the Company. On the question being put on the first resolution, "That it appears to the committee that the debt of the Company amounts to nine crores 26 lacks and 40,162 current rupees,"

Mr. *Francis*, having taken notice of the manner in which Mr. Dundas had deprecated all personal allusion, declared his intention to follow the right hon. gentleman's advice. That day had been promised, he observed, to be a proud day; but the right hon. gentleman had changed his tone, and, instead of pride and triumph, he had talked of consolation and promise. One of the consolations that he had found in the affairs of the India Company was, that they were nine millions in debt in Bengal, which was stating the Bengal debt much higher than he had ever heard it stated. Another consolation was, that thirty lacks of rupees were to be sent from Bengal to Bombay, though seventeen lacks were all that had been used to be sent there; and the Mahratta war was begun expressly on the plea, that obtaining some territory on the Malabar coast would yield a revenue, and that this would render all farther supply to Bombay from Bengal superfluous. Mr. Francis contended, that there was no surplus of the revenues of Bengal, but on the contrary a considerable excess of expenditure. But if there had been a surplus, to adopt the proposition of taking a million of money out of Bengal annually, would be unwise in the highest degree, considering the very small quantity of actual specie in circulation. Better would it be to seize Bengal and dash it at once into the ocean, than attempt so absurd and preposterous a thing as to take so much specie out of a country so greatly impoverished. The fact was, the revenues had decreased considerably for the last five years. He asked, why the regular accounts for the two last years had not come over, and said, it proved what ill discipline the Board of Control exercised, not to oblige the Company's servants in India to furnish the proper accounts in due time. He contended, that the sum of charges on account of collecting the revenues was not correct, that only 39 lacks were taken into the account instead of 83 lacks. He admitted, that bringing the Bengal debt to England would lighten the hands of the government of Bengal, but denied that the reason for the creditors refusing to subscribe to take the debts through the medium of investments, was owing to the exchange of the rupee being rated so low as at twenty pence each: the fact was, the not having any thing like a security that when the debts were subscribed they would be paid at all in England, was the reason, and not the low exchange of the rupee. Nearly a million was subscribed at 1*s.* 8*d.* the rupee; and he was well informed the whole would have been subscribed in like manner, had the creditors received any

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sort of security that they should afterwards get their money in England. Mr. Francis took notice of what Mr. Dundas had said of fixing the tenure of the landholders in India at a certain quit-rent, and declared, he highly approved of that idea: he always had done so, and had uniformly laboured to enforce that principle. With regard to the accounts upon the table, they were by no means satisfactory. The whole of earl Cornwallis's letter ought to have been laid before the House, and various other papers; some especially relative to the paper of the Company in circulation in Bengal. He produced a letter from Mr. Larkins, the Company's accountant-general in Bengal, who had undertaken a scheme, some years since, to liquidate it, and had declared in high language, that the whole should be paid off by 1786. At the time that Mr. Larkins formed this scheme, the amount of the paper in circulation was little more than 100 lacks; and it was, according to the latest accounts, 191 lacks, and the discounts as high as 22 per cent. Mr. Francis concluded with declaring, that if Bengal was well governed, he was indifferent as to who it was that governed it: for his part, Bengal had proved a source of vexation and anxiety to him ever since he had known any thing of it. In respect to his property only had he any reason to rejoice that he never knew it; and he did assure the right hon. gentleman, that if it were well governed, he would never trouble himself again with the accounts of Bengal.

Mr. *Grenville* declared, that if the hon. gentleman never meddled with Bengal accounts to a better purpose than he had done that evening, it would add considerably to his credit that he never meddled with them at all; for a more direct misrepresentation of facts had scarcely ever been attempted. The hon. gentleman began his speech with taking notice of the advice given by his right hon. friend, not to mix any allusions of a private or a personal nature with what was said that day, and he had promised to follow it; yet in his very first observation he had avoided to name any person, but had mentioned a measure, annexing to it all the blame which belonged to it, in a manner so pointed, that it could not be mistaken to whom the hon. gentleman meant to ascribe so strong a censure. The hon. gentleman had next pronounced a deficiency to a large amount, and declared that he had spoken it before; it was true the hon. gentleman had done so more than once, or twice, or thrice; but it was equally true his declaration had been as often refuted. The hon. gentleman had said that his right hon. friend had gone back to the three years preceding the two last, because in the three years from which he had taken his average, the collection of the revenues had been larger than in the two last; the assertion was not true; the collection was not larger, neither had his right hon. friend resorted to the three former years: the reason was, because no accounts of the two latter years had yet arrived from India, but not for want of proper means being taken to oblige the servants in India to make up their accounts and transmit them home regularly. Every possible exertion had been resorted to in order to enforce that. Another observation of the hon. gentleman's was, that the reason which prevented the Company's creditors in India to subscribe their claims, was not owing to the rupees having been rated at the exchange of 1*s.* 8*d.*, but for want of any security that they would ever be paid in England. In answer to this Mr. Grenville declared that an express condition of payment, in a limited time, had accompanied the offer of letting the creditors send home their claims upon the Company, through the medium of investments. Mr. Grenville concluded with congratulating the Committee on the pleasing prospect which the statement of his right hon. friend held out to the country.

Mr. *Burke* said, that he rose with all civility and respect to the right hon. gentleman who had opened the debate, and desired to join issue with him in declaring, that he verily believed he had no manner of reason to dread any enemy in India, unless that enemy were joined and supported by an European ally; but as such an event might possibly happen in the course of things, it was a matter to be looked to and provided against, as well as the nature of the case would permit. The contest of that day had been a contest between the right hon. gentleman and earl Cornwallis; the only way, therefore, to enable the Committee to decide who was right, would have been for the right hon. gentleman not to have kept back any part of the evidence, but to have acted in a more noble, open, and manly way, and to have let them have the whole of earl

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Cornwallis's letter before them: by the whole, he did not mean the arguments of his lordship about Indian politics; to those they had no pretensions; the subject was not before them, and, exclusive of the impropriety of making it public, they had nothing to do with it. For his part, the right hon. gentleman would excuse him, if he declared that, considering that earl Cornwallis was at the fountain-head of intelligence, upon the spot where the transactions he alluded to were going on, he was inclined to prefer the moderate, cool, and confined ideas of earl Cornwallis, respecting the future state of the Company's affairs in Bengal, to the more sanguine speculations of the right hon. gentleman, though clothed with high authority, and possessed undoubtedly of the means of obtaining much authentic information on the subject. Mr. Burke mentioned the magnitude of the proposition of taking nine millions of debt out of Bengal, and adding it to our debt at home; and after dwelling upon the difficulty and the time that the liquidating so large a debt would take, proceeded to notice the idea of drawing near a million out of the revenues of Bengal to Madras and Bombay, and after that expecting that the revenues of Bengal could bear to be appropriated to the purchase of investments. He treated these speculations as extravagant and impracticable: he said, that he did not know whether he ought to consider such symptoms as the faculty did the *facies Hippocratica*, as the symptoms of approaching death, or of the possibility of cure; but to draw such sums out of Bengal, without making any return of specie or wealth, appeared to him as unreasonable as to expect a human being to exist under a state of perpetual bleeding and purging, without administering the smallest portion of food to support such an exhausting practice. What was to fructify our provinces and to renovate their riches, after we had drained them in such a violent way? Instead of rice we should see nothing but fields of jungles or weeds, and instead of the race of men, the race of the royal tiger would increase and multiply: he explained the expression of the royal tiger to be symbolical of the British government, declaring, that as extraordinary power had longer claws than ordinary authority, so might it well be termed the royal tiger. Among other bad symptoms he spoke of the increased circulation of paper of Bengal at a high discount, and said, that if the fact were true that the Company paid their officers with paper, which they refused to receive back in payment themselves, the symptom wore an alarming aspect, and gave the case the appearance of desperation. He mentioned Mr. Larkins's plan of reducing the quantity of paper in circulation; and stated the circumstance of a large increase of paper in circulation, growing out of a plan of reduction, and attended with a larger discount than ever, to be another, and a worse symptom than any. He commended the idea of a fixed quit-rent as the only way of giving happiness and security to the landholders; and in answer to Mr. Dundas's declaration, that our provinces in India were the most flourishing, said, that it would be wonderful if they were not, when we had possessed ourselves of the finest provinces in India, lying between two rivers which would fertilize any country in the world, and containing the whole of that delightful coast, a small portion on the back parts excepted, from Bengal down to Cape Comorin. But it was not rightly stated by the right hon. gentleman, when he said that our provinces were the most flourishing; there were some few others, he believed, more flourishing, and others again far worse. The rajah of Berar, for instance, governed in a province not to be talked of in comparison with Bengal, (formerly called the Paradise of India) with Bahar, Orissa, Oude, and Benares: the face of the kingdom of Berar was covered with immense mountains and forests. But let it not be the right hon. gentleman's boast, that the British provinces were finer and more fertile than the kingdom of Berar; let it be his triumph to say, that under the British government the natives lived as happy, the soil was as productive, and the revenues were as ample, as under the native princes whom we had succeeded.

Major *Scott* said, that he had the fullest confidence in the upright intentions of the King's ministers with regard to India; in fact by passing a self-denying ordinance, they had precluded themselves from the possibility of abusing the power which the Legislature had placed in their hands, since no appointments were to be made until they became absolutely necessary; of course the affairs of the Company would be daily recovering from the embarrassments in which a long, though a successful war had involved them. As to the mischievous consequences of depriving

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Bengal of its circulating specie in the present moment, he saw them in as strong a light as the right hon. gentleman (Mr. Burke) could do. The exertions made by Bengal in the preservation of India during the late war, had reduced her to distress in point of circulating specie; but as to agriculture, population, and commerce, there never was a period in which the country was more flourishing. The right hon. gentleman had talked of his ninth Report, and of a doctrine laid down in it, which he had repeated; but it was as incomprehensible now as it always had been. The major said, if gentlemen had been at the trouble of looking at some curious accounts which he had moved for, they would have observed that the Company had received from Oude and Benares, in the last thirteen years, above fourteen millions sterling, of which sum above ten millions had been remitted to Calcutta and Surat; but as all our demands had been paid, these sources of relief to Bengal were at an end, and he was sure the right hon. gentleman (Mr. Dundas) would see the impropriety of sending more money from Bengal till it had had time to recover itself. The major said he was happy to hear it allowed, that Bengal was the most flourishing country in Hindostan: it was a fact he had always asserted; he had travelled over various parts of it at different times, from 1767 to 1781, and he had found it in a progressive state of improvement. The right hon. gentleman (Mr. Burke) was a philosopher and an historian; and it always, the major said, had appeared to him very extraordinary, that he should pass by the real and the true cause of the only decline there was in Bengal, and impute it to the mismanagement of the English. The fact was, that our government in Bengal was an usurpation upon an usurpation; the natives of Bengal, the aborigines, were Hindoos, and as nine to one in number, with their rulers, the Mahometans. We usurped the dominion from the latter, and of course the right hon. gentleman's favourites, the nobility and country gentlemen, disappeared. It was the custom of the Nabobs to grant jaghires or estates from 500 to 50,000*l.* a year; but as the possessors died away, we did not renew them, and of course that order of men had in a great measure disappeared; but the natives, the mass of the people, were infinitely happier under our government than they had been for the last fifty years of the native government, and beyond all comparison happier than any of the other natives of Hindostan.—With regard to the accounts, the major said, he was convinced they would be more productive than lord Cornwallis had stated them. In fact, Mr. Larkins had invariably estimated the salt and opium at less, by fifteen lacks, than they turned out; and as for the land revenue, it was a very singular circumstance, that for three years, in a collection of three millions, it had never varied more than 40,000*l.* An hon. gentleman had said, that the revenues had been annually declining for the last five years: the fact was directly the reverse; for they had been increasing each year, and there was now a letter upon the table from the Governor General and Council stating, that upon the whole revenue of 1785 and 1786 there was only a balance of six lacks, of which four were recoverable.

The several Resolutions were agreed to.

Debate on the Report of the Articles of Impeachment against Mr. Hastings.] May 9. The order of the day for the farther consideration of the report of the Committee appointed to draw up Articles of Impeachment against Warren Hastings, esq. being read, it was moved, "That the said Articles be read a second time."

Lord *Hood* rose and said:—Having upon a former day, Sir, so fully expressed my sentiments respecting the late governor-general of India, I shall not trespass upon the time and patience of the House for more than three minutes; but I cannot content myself with giving a silent vote upon the present very important question. I am ready to acknowledge, that the charges taken in the abstract, as exhibited against Mr. Hastings, appear exceeding heavy and severe: but when I take into my view the motive that led to this conduct upon which those charges are founded, they make no impression of criminality upon my mind; and I must exceedingly lament, what has been frequently suggested in this House, that an officer in high trust and command upon foreign service in time of war, must not take measures that may prove an evil to private individuals, although the greatest public good will evidently arise from them to the state. If, Sir, the representation of this nation in parliament adopt that doctrine, I do not hesitate to say, that this country has seen its fairest and best days; for a zealous and spirited officer must find himself infinitely

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distressed, and his ardour greatly abated, to know, he must content himself with the means established for him, and which his employers have lodged in his hands, however inadequate to the services entrusted to him, rather than have recourse to others he thinks within his reach, and which clearly promise the most beneficial public advantage, unless he does it at the hazard of being arraigned at the bar of this House as a delinquent, even, Sir, if the most brilliant success attends his exertions: and permit me to say, Sir, at the risk of all that is dear to him; nay, at the risk of his head, should those exertions fail. Thus circumstanced, I beg to submit to the good sense and cool consideration of the House, how truly miserable and unfortunate any officer in command abroad almost must feel, and such, Sir, his situation and feelings must unavoidably be in future from what has been the lot of Mr. Hastings. Most undoubtedly, it is very much the duty of every man who has the honour of a seat in this House to exercise that portion of reason and common sense with which it has pleased God to bless him, as the surest and best guide for his opinion. That mine, upon the subject now under discussion, differs in some parts from my much-respected and right hon. friend below me, gives me infinite concern, as it is the only instance (one other excepted) wherein my vote has not conscientiously gone with his; but considering most maturely, the arduous and perilous situation in which Mr. Hastings was placed, as well as the very signal services he has happily rendered his country, notwithstanding the various difficulties with which he was on all sides constantly surrounded, and convinced, as I am, that our present possessions in India are solely owing to his zeal and uncommon abilities, I cannot bring myself to pronounce him criminal; but I hope and trust I shall not be understood to contend, that Mr. Hastings has not committed errors. I admit that he has, and will be bold to say, there never was a man in an important command abroad for a series of years in time of war totally exempt from them; but upon striking a fair balance between the eminent services of Mr. Hastings and his errors, I can never give my consent that any charge of criminality shall go against him from this House, consequently I feel myself bound to give my negative to the second reading of the Report.

Alderman *Wilkes* said:—Mr. Speaker; I am very happy to hear the firm negative of the noble lord to the second reading of what is called the first Report of the Committee. I rise to give every support in my power to his lordship's proposition, for upon the most careful investigation of this Report, I do not hesitate to assert that it is built on a false and rotten foundation. The Articles stated in the Report are in manifest and direct contradiction to the documents, and all the evidence, on the table of the House. Mr. Hastings is charged by the Report in express terms, "with not regarding the sacred obligation of his oath, nor the important duties of the high offices to which he was appointed, but entertaining base and corrupt views of procuring for himself and his dependants exorbitant wealth, &c. by many unjustifiable acts by him done and committed, whilst he was President and Governor-general of Bengal, by various unwarrantable and criminal practices, faithlessly, illegally, and tyrannically violating the duties of his station; by each and all of which practices the welfare of the East India Company has materially suffered, the happiness of the native inhabitants of India been deeply affected, their confidence in English faith and lenity shaken and impaired, and the honour of the crown, and character of this nation, as far as in him lay, wantonly and wickedly degraded." These are indeed, Sir, heavy and atrocious charges, and therefore ought not to have been brought forward without the fullest, and most incontrovertible evidence. I shall proceed to prove, that the whole is unfounded, mere rant and declamation; of which the papers, which have been read by the clerk, give a clear and irrefragable proof. I will not fatigue the House with voluminous extracts from the many folio volumes now on our table, but content myself with the unexceptionable evidence of the late Governor-general of Bengal, sir John Macpherson, so late as the 10th of August 1786, and the records of the East India Company.

Sir John Macpherson in a letter to the Court of Directors, dated from Calcutta the 10th of August, 1786, says, "The condition in which earl Cornwallis will receive the government of India, is creditable to the Company, and cannot but be satisfactory to the nation. The native inhabitants of this kingdom are, I believe, the happiest and best protected subjects in India; our native allies and tributaries are satisfied, and confide in our protection; the country powers are emulously

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aspiring to the friendship of the English; and from the king of Tidore, towards New Guinea, to Timur Shaw, on the banks of the Indus, there is not a state that has not lately given us proofs of confidence and respect." With what pride and exultation will an Englishman contemplate, and dwell upon, this pleasing picture of the happiness of the inhabitants of India, a picture drawn on the spot the last autumn? With what a mixture of horror and indignation will he turn away from a false, coarse, and wretched daubing made at home by a Westminster committee, and heightened with all the gloomy and frightful colours of misery and despair, instead of the scenes of cheerfulness, which nature in reality presents?

Two or three more quotations of no considerable length I beg leave to submit to the House. The Report states, "That the welfare of the East India Company has materially suffered by the various unwarrantable and criminal practices of Mr. Hastings." Now, Sir, the most natural judge to decide this question must be the East India Company. Let us examine their sentiments, whether they think that they have materially suffered, or been highly benefited under the government of Mr. Hastings. I desire, Sir, to read the unanimous Resolution of the 28th of June, 1785, "That the chairman be directed in the name of the Court to congratulate governor Hastings on his safe arrival, and to return him the thanks of this Court for the long, faithful, and able services he has rendered to the Company." There was but one opinion at that time among his constituents of the merits of the late Governor-general; and the above honourable testimony was given to Mr. Hastings after he had closed the long glories of his government; for he sailed from Bengal in the Barrington on the 7th of February, 1785. The two preceding years had borne the like grateful evidence to the services of Mr. Hastings. The general Court of Proprietors on the 7th of November, 1783, came to the following Resolution. "That it is the opinion of this Court, that Warren Hastings, esq., Governor-general of Bengal, and the other members of the supreme council, have displayed uncommon zeal, ability, and exertion in the management of the affairs of the East India Company, during the late hostilities in India, particularly in finding resources for supporting the war in the Carnatic under so many pressing difficulties, when that country was in danger of being lost, through the successful irruption of Hyder Ally Cawn, aided by the powerful assistance of the French; and also in conluding the late treaty of peace with the Mahrattas at a period so critical, and on terms so honourable and advantageous to the permanent interests of the Company:—Resolved, therefore, that the thanks of this Court be given to Warren Hastings, &c." The last quotation I beg the House to indulge me with reading, is that of the 28th of October, 1784: "Resolved unanimously, That as peace and tranquillity are now perfectly established throughout India, and this Court being sensible that this happy event has been principally owing to the very able and spirited exertions of our Governor-general and of our supreme council, that the Thanks of this Court be conveyed to Warren Hastings, esq., for his firm, unwearied, and successful endeavours in procuring the late peace with the several powers in India."

I now, Sir, leave the Committee to the management of this new Indian war, which they have declared against a powerful confederacy, in perfect harmony and unanimity among themselves. The manifesto of our Committee states, that "the welfare of the East India Company has materially suffered by the practices of Mr. Hastings." The East India Company publish to the world, and consign it on their records to posterity, that Mr. Hastings has rendered "them long, able, great, distinguished, and faithful services," and concluded a treaty of peace on "terms honourable and advantageous to their permanent interests." Mankind in general, Sir, I believe, will have little difficulty in determining that a great body of merchants must understand, and consult, their own permanent interests, rather better than any committee of this House not quite so deeply interested in the event.

From the papers which I have taken the liberty of reading to the House, I now claim the right of asserting, that the charges against Mr. Hastings in this first Report, have received a satisfactory and complete answer. Instead, therefore, of their obtaining the sanction of our approbation; truth and justice call upon us to reject them as cruel calumnies against a gentleman, who has deserved highly of his country, as a rude and base attempt to tear the well-earned laurels from his brow. Sir Eyre Coote and sir Edward Hughes

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were honoured with the thanks of this House for particular services in the East during the late war. They both attributed their success in a great measure to the wisdom and vigour of the councils of the Governor-general of Bengal. It is, Sir, a reproach to this House, that for those, and many other greater services, Mr. Hastings still remains unthanked here, although the applause of his constituents, and the people at large, have in a liberal manner given that fame which a faction among us deny.

Sir, as an Englishman, I avow my gratitude to Mr. Hastings; for I think him a distinguished benefactor of this nation. During the late inglorious war, we fully triumphed no where but in the East, under his happy auspices. There the perfidy of the French, and the treachery of the Dutch, were most exemplarily chastised. He preserved entire all our Asiatic provinces, and left unimpaired the extensive empire which he governed. His conquests over our enemies comprehended every French and Dutch settlement, except Cuddalore, which was saved only by the peace. It is without a precedent that so important conquests were made at no expense to the mother country. Lord Clive had frequent and large remittances from England, to the amount of some hundred thousand pounds. Without these he could not have carried on the wars in which he was engaged. No complaint has been made of the danger of our being impoverished, or exhausted, by Mr. Hastings's Indian wars. The wonderful resources of his mind made the war support itself. The expenses of it were borne by our enemies, by the traitors and rebels in our own provinces, or by ambitious neighbours, who had leagued together for our destruction—I might say extirpation.

Sir, the various overt acts of sedition and rebellion in Cheyt Sing, and the Begums, are recorded at large in the volumes on our table. Their rooted hatred to the English is fully established. I believe that I shall not be contradicted, when I maintain that all property of every kind, jaghires, grants, revenues, and life itself, are forfeited to the state by delinquencies of this atrocious nature. The largeness therefore, or smallness, of a fine in such a case must be out of the question; nor can there be any pretence to complain of grievous penalties, or exorbitant exactions, when the whole is confiscated. Whatever is left to the culpable party, must proceed from mercy and compassion, all possessions and treasures of every sort being forfeited. Every wise government, with equal policy and justice, will apply to the preservation of the state what was destined for its ruin and annihilation. On these great principles of sound legislation Mr. Hastings appears to have acted. He well knew the treachery and deep dissimulation of the Begums. I have heard indeed, Sir, of one British officer's life being saved by them, a captain Gordon. No mention is made of the many officers and soldiers sacrificed in the tumults and rebellion which they excited. I do not exactly know on what account the captain was spared. Much stress is laid on the circumstance; but the instance only proves that the Begums had usurped the government of a country, in which they were only subjects. A solitary act of mercy is pleaded with an ill grace, and deserves little weight, against very many instances of cruelty. The rebels, it is plain, paid obedience to the Begums, whose usurped power at that time was supreme.

Much ridicule has been thrown on the number of affidavits taken in India on occasion of the late insurrections, revolts, and rebellions. The case is not clearly understood, nor the intention explained. The critical and dangerous situation of our government called for immediate and vigorous exertions. Our provinces and dominions were secured by instant spirit and courage, without which all had been lost. Every person on the spot was convinced of the rebellious practices of many natives of high rank and power, and of the urgency of our situation. Prudence afterwards dictated the measure of giving all the minutiæ of legal proof to those concerned in the affairs of the East Company at home, at the distance of 4000 leagues from the scene of action, to whom many particulars of moment and magnitude were unknown. It became almost necessary for the satisfaction of some men of strict form and minute detail, who canvass large plans of government, and the comprehensive system of empires, in the rigid mode they do causes of petty larceny. They arraign the saviour of an empire on the narrow principles and with the little chicanery of the Old Bailey. Happily for this country, the decisive moment of action was not lost by an idle attention to trifling forms. Sir, when the

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English under our immortal Henry V. landed in France, the year of the battleof Agincourt, there was a President of the Parliament of Paris, who has been consigned to eternal ridicule, a Monsieur Louvet, "grand personage, au maintien grave, et qu'on eût pris pour sage:" He remonstrated in all the forms against the French troops marching, till there was an Arrêt de Parlement against the English Monarch and his army, signed by the Greffier-en-chef in the name of all the Chambers. Mr. Hastings appears to understand business rather better than M. Louvet, and to have despised mere forms and cold caution, when the moment of important action arrived, which he carefully watched. The success which followed, was adequate to the wisdom and courage of all the measures of a great statesman. The family of M. Louvet I suspect emigrated to England, and made a cross breed with those who, strictly observing all forms of Votes, Resolutions, and Acts of Parliament, lost thirteen provinces in America, with Minorca, yet dare to persecute the saviour of India.

Sir, I am likewise ready to admit, that Mr. Hastings has sometimes gone beyond the strict letter of the powers with which he was intrusted; but I add a proviso, that he has always been warranted by the emergency of the occasion, and the general instructions under which he acted, and that in no instance has he been actuated by corrupt or selfish motives. He never lost sight of the General Instructions from his constituents of the 29th of March, 1774, "that in all your deliberations and resolutions you make the safety and prosperity of Bengal your principal object—and fix your attention on the security of the possessions and revenues of the Company." To these important objects his strong and manly genius has sometimes sacrificed the dead letter, with all the tedious and embarrassing forms of the lower courts of law, perhaps even exceeded the usual powers of a Governor-general.

Let us advert, Sir, to what passed in our own country in 1766. The capital was threatened with famine, for the stock of corn in hand was inconsiderable, and the harvest had failed with us, as well as in most parts of Europe. The exportation began to increase beyond the example of all former years, and commissions for the purchase of wheat from abroad had been received to an unusual amount. The necessities of the poor were become urgent and alarming. In this emergency Government acted wisely, and according to the spirit of the constitution, although directly against law. An embargo was laid on all ships in the ports of Great Britain laden with wheat or wheat flower. The people were fed, and the country rescued from the dreadful calamity of famine, which in many parts had been severely experienced. The ministers stood forth in a manly way at their own risk, and trusted to their country for indemnity. They obtained it to the fullest extent from a grateful senate, as soon as Parliament met. The law was plain and positive; but the breach of it became meritorious from the necessity of the case, for the salvation of the state. In such arduous circumstances has the late Governor-general been, and to similar exertions do we owe the preservation of our Indian empire.

This House, Sir, have made a complete apology for Mr. Hastings's having in time of war and rebellion gone perhaps beyond the letter of his powers and instructions. In this very session, although in a piping time of peace, we have wisely armed lord Cornwallis, the new Governor, with more enlarged powers, better calculated for all emergencies of moment, and for so extensive, so distant an empire. I do not hold, Sir, *silent leges inter arma*; but extraordinary powers may be necessary for the safety of an endangered and convulsed state, like extraordinary remedies in dangerous and desperate diseases. A man who could hesitate about any act necessary for the safety of his country, would be unworthy of a high trust. An empire might be lost by his incapacity and poltroonery. *Salus populi suprema lex* ought to be the first maxim of every statesman. Many cases of difficulty cannot be foreseen. In the field were numerous hosts of enemies. In the councils at home Mr. Hastings was harassed by interested rivals, of great art, subtlety, and chicane, although of a trifling, narrow, mean, and flimsy genius. It was his fate to have his wisest and most generous plans of prosperity for a great empire thwarted by paltry, puny politicians. The single question is, and that truly momentous, was not the evident tendency of all the actions of the late Governor-general, the security, the honour, the glory of the British Indian empire? We may cavil here, and struggle hard against truth, but

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our neighbours have long ago decided in favour of Mr. Hastings, in a manner becoming intelligent, just, and generous enemies.

Sir, on every great question of history, policy, or legislation, we are doomed to hear comparisons drawn from the republics of Greece and Italy, and applied to the English monarchy. The late Governor-general of Bengal has been frequently, by a right hon. gentleman, compared to the Roman prætor of Sicily, Verres. The fairness of the comparison has not, I believe, been so much thought of, as an indirect and sly compliment to the original accuser among us. He imagined that an association of ideas would naturally lead the mind to the Prince of Roman Orators, to Cicero, our prototype, the accuser of Verres. I do not quite comprehend the justness of the comparison. In the impeachment of Verres, every city, town, and village of Sicily, except Syracuse and Messina, as well as numerous public bodies, concurred. The impeachment of the late Governor-general of Bengal has been announced to the public above four years. Where, Sir, are the petitions to this House against him from a single town, or village, or the most inconsiderable body of men, or even an individual in all Asia? "If he has been loaded for years with the execrations of the natives," as was asserted in the spirit of rancour, not of truth, why has not a single person, in the space of more than two years and a quarter, since the total extinction of his power, complained to this House? With what pomp, with what an air of insolent triumph would such petitions have been offered to you, Sir? What tedious, elaborate comments should we have suffered on every word in them? You would have been left almost to a solo in that chair. If Mr. Hastings "be the most notorious delinquent India ever saw," how has it happened that no one suffering inhabitant of India has preferred a single complaint against so long-protracted a tyranical administration? What talisman has Mr. Hastings employed? Has he fascinated all the ancient and venerable priesthood, all the nobility of great antiquity and renown, all the multitude of cities, not exceeded in population and trade by those of the first class in Europe, all the merchants and bankers, all the millions of manufacturers, and mechanics, all the millions of the tillers of the earth? Mr. Hastings must certainly be the greatest sorcerer who has ever appeared, beyond all the fabled magicians and necromancers of antiquity. He must be our English Merlin revived with superior powers. He must have practised with the most wondrous charms and filtres. What spells, what magic arts, what enchantments, have been so potent, so universal? I cannot trace out in all the folios before us a single line of complaint to the right hon. accuser from the poor Begums, although such a correspondence would have been more valued than with any princess in Europe. He would tenderly have echoed all their sighs and groans, pitied their hideous outcries, added his own Jéremiades, and deplored their wretched fate, fallen! fallen! fallen! instead of rejoicing, as all India did, at the punishment of their seditious and rebellious practices.

The fact, Sir, is, that no man was ever more beloved throughout Hindostan than Mr. Hastings. His departure was lamented by all the natives and Europeans as a general calamity. They gave him every public and private testimony of affection and esteem as their common father and friend. The voluntary tribute offears was paid him by a whole people. It was reserved for a faction and party in this House, and in this *annus mirabilis*, to hold us out to the ridicule of mankind, by this parliamentary inquisition, this persecution of exalted merit by an impeachment.

But, Sir, if we must of necessity find a comparison of these proceedings among the Romans, I shall bring forward that of Scipio. He too was impeached by a despicable faction, envious of his glory, not emulous of the great actions by which it had been acquired. On the day of the accusation, he with sovereign contempt left his accusers and revilers in the Forum, and marched, followed by all the people, to the capitol, to the temple of Jupiter, to return thanks to the immortal gods for his successes over the enemies of Rome, and to pray for more friends to his country, equally faithful and fortunate as himself. With the same honest zeal for my native country, I will pray heaven, Sir, to continue to bless England with such men as Rodney and Hastings.

Much has been said, Sir, about the accepting of presents by Mr. Hasings, in direct violation of the Act of Parliament. The fact is admitted, but let us examine the law. By the "Act for establishing certain regulations for the better manage-

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ment of the affairs of the East India Company, as well in India as in Europe, &c." the 13th of the King, ch. 63, s. 23. which passed in 1773, it is enacted, that "No governor-general, or &c. shall directly or indirectly by themselves, or by any other person or persons for his or their use, or on his or their behalf, accept, receive, or take, of or from any person or persons, in any manner, or on any account whatsoever, any present, gift, donation, gratuity, or reward, pecuniary or otherwise; or any promise or engagement for any present, gift, donation, gratuity, or reward, &c." This, Sir, is the Act by which Mr. Hastings was first appointed Governor-general of Bengal. Now, Sir, I ask, where is the proof that Mr. Hastings has violated this law in a single instance? Has he taken for his use, or on his behalf, any present, gift, donation, gratuity, or reward? Let the evidence be produced. It is true that various presents were at different times received by him, and in particular 100,000*l.* from the Nabob of Oude; but it is equally true that they were always carried to the account of the East India Company, and actually formed a regular head of revenue after the Act took place. A second Act, the 24th of the King, ch. 25, s. 45, which declared "that the receiving presents for the use of the East India Company shall be deemed and taken to be extortion," did not take place till Jan. 1, 1785, the month before Mr. Hastings embarked for Europe. The last-mentioned sum of 100,000*l.* was specifically entered as a present. These gifts and presents were afterwards issued for the pay of the army. Without these, and other extraordinary aids, the army had disbanded, perhaps massacred their employers; but the Indian empire would certainly have mouldered away. The offering of presents is thought in the East a necessary preliminary in all negociations between a higher power and an inferior, or dependant. If the present is not accepted, the suit is understood to be rejected.

It has been asserted, Sir, that during the late contests in India, many, various, and shocking cruelties were committed by the British troops, during the government of Mr. Hastings, if not by his orders, at least not without his knowledge. These vague assertions have not been corroborated by the slightest evidence. No such stain has at any time been fixed on our officers and soldiers. Their humanity, and generous feelings for an enemy, have ever been celebrated in grateful strains. It is a fine feature in our national character. I do not mean to extend this praise to every sepoy in our pay. The sepoys of Asia may possibly be at times as ungovernable, as brutal, as merciless, as the Croats and Pandours of Europe; but no single instance of cruelty has been brought home against any European in our service, nor any evidence offered to the House, which can warrant the imputation on any of the troops in our employ.

Sir, I was very happy last Monday to be in my place, when a right hon. gentleman, one of the commissioners for the affairs of India, opened his Indian budget. I heard with great satisfaction his just, perspicuous, and accurate account of the prosperous state of the East India Company, both at home and abroad. His facts were founded; his reasoning strong and masterly. It was a complete answer to all we heard two years ago from a gentleman near me against "the temporary support of a trading Company, whose affairs, he was perfectly sure, would be found on examination so completely and irretrievably ruined, as to be beyond the reach of any effectual relief, and that we could not, by any efforts this nation could make, prevent the ruin of the Company." I rejoice, Sir, at the present flourishing state of our affairs in the East, so truly given by the right hon. gentleman; but I desire to remind him, that to the uncommon abilities of Mr. Hastings he owes the scene where he may triumph; and that in spite of all the rivals of Mr. Hastings's power, he will acknowledge with me, that the late Governor-general of Bengal could alone have preserved India. I cannot entirely join in his expression that India is the brightest jewel in our crown. It is undoubtedly a very fine jewel, of great splendour and brilliancy, but surely not the brightest jewel in the triple crown, which our monarch wears. It may, indeed, equal in value all the jewels in the diadem of one of his three kingdoms, for it is certainly of high intrinsic worth. What acknowledgments therefore are due to the man who preserved such a jewel in the crown, must be left to the gratitude of his country, and of the Sovereign who wears the crown.

The House, Sir, will naturally conclude from all the reasoning I have used, and the facts stated, that I shall never plead the pitiful and false doctrine of a set-off, of which so much has been said. The

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doctrine of great merits balancing great crimes can never be admitted in a judicial process. In the present case it is entirely inapplicable. I stand aloof, and for my part reject it with disdain. I think that services of so important a nature deserve rewards and honours. I maintain that there is no proof before us of Mr. Hastings's guilt, but ample evidence of his incessant labours for his country, of his signal services, and merited success. Justice, policy, honour, gratitude, plead then strongly with us, surely not to impeach, but to distinguish and reward national merit in our countryman.

I regret, Sir, that the constitutional word, impeachment, should now be prostituted to the purposes of party and faction. The word coalition is scarcely become more hackneyed, more odious. We have been amused with flowery harangues on no less than three threatened impeachments. The first occupied our attention for several years. It was the watch-word of the present accuser of Mr. Hastings. He made the walls of this House reverberate the sound—till a little before he joined the noble lord in the blue ribbon. He declared that the articles of impeachment against that noble lord were ready drawn, and in his pocket. They have slept there ever since. The grounds of those articles were not trifling. The noble lord was accused of the loss of half our empire, and of the foulest corruption. Those crimes, he said, were only to be expiated on the public scaffold, to which it was certain that the tribunal of justice would doom the noble lord. The noble lord and the right hon. gentleman now join hands in high good-humour in the coalition dance. The second impeachment was declared against the brave and fortunate Rodney, on the persuasive eloquence of some Dutch Jews, whose evidence met with implicit faith on a variety of accounts. The admiral had been recalled in the very first month of the new Administration, almost in the hour of victory. We have heard no more of that impeachment; but our grateful countrymen are loud in the applause of the courage and conduct of the English hero, who captured three foreign admirals, and took sixteen sail of the line from the enemy. The present impeachment is in my idea almost as ridiculous; but I remember an observation of the present accuser of Mr. Hastings, which appears to me perfectly just, that "obloquy is a necessary ingredient in the composition of all true glory."

Sir, I trust that the day of delusion is past. I have been dazzled with the brilliant eloquence, and captivated with the beauty and variety of an hon. gentleman's wit on the fourth charge, lamenting at the same time the indecent rancour, and coarse abuse, of several expressions. But, Sir, he trusted entirely to the rich stores of a luxuriant imagination, and chose to indulge in all its happy sallies. The warmth of his glowing colours was more to be admired than the truth of his outline. He never condescended to reason closely, nor concerned himself about any grave argument, or dull matter of fact. Every auditor was highly amused: no man was convinced. I waited with no small impatience, but in vain, for a detail of clear well-established facts, for the evidence of historical truth, supported by unexceptionable witnesses. No such appeal was made; the sole reliance was on the seducing arts of a powerful meretricious eloquence, which was, as it generally is, too successful. Sir, from the evidence on our table it has been demonstrated, that this first report is totally unfounded. I therefore give my hearty negative to its being now read a second time. I wish, Sir, we were fairly rid of this disgraceful business, which, if pursued, will cover us with confusion. In order to extricate the House effectually from the labyrinth of error, in which we are wandering, I shall, as soon as the negative has been given to the present motion, according to parliamentary form move, "that this Report be read a second time on this day six months."

Mr. *Dundas* said, that entertaining, as he did, an opinion favourable to the party accused, he thought himself bound in conscience to declare it. He had frequently heard it remarked by gentlemen on both sides the House, that this was no party or political question, but a solemn judicial proceeding; and undoubtedly it was. He hoped every member would keep this in view, and would consider himself as deciding upon the fate of a British subject in a case where his fortune, his fame, his situation in life, the peace of his mind and of his family, were all at stake. In such a case, whatever respect he might have for those who supported the prosecution, he could not permit himself either to think or act upon confidence in the superior abilities or information of any person

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existing, unless in so far as his own mind was convinced. The hon. gentleman who opened the charge concerning the revenues of Bengal, whose zeal for the cause he had undertaken would admit of no doubt, had made a very fair and honourable declaration. His words were: "He who accuses ought to be convinced." This was exactly what he felt as to his own situation. Were he convinced by the evidence produced, that Mr. Hastings was guilty of all or any of the crimes imputed to him, no consideration whatever should induce him to withhold his assent to the impeachment. But if, on the other hand, he was not satisfied of the guilt, and still more, if he was satisfied of the innocence of Mr. Hastings, he must, on the same principle, as an honest man, refuse his concurrence to the measure proposed. He believed some gentlemen had conceived an idea (which he held to be extremely dangerous and unconstitutional), that as that House was not ultimately to judge of Mr. Hastings's conduct, but only to perform the part of a Grand Jury; and as Mr. Hastings would have an opportunity of clearing himself before the supreme tribunal of his country if innocent, it was the less necessary to go nicely to work here. It was enough, if any grounds of suspicion or unfavourable conjecture appeared. He had even heard it said, that Mr. Hastings himself ought to wish for impeachment, and that the honour of the House was deeply committed to go on with the prosecution. As to Mr. Hastings's wishes, he felt himself totally indifferent about them, and would look only to his own conduct and character as a member of parliament. He indeed thought the House deeply committed—but it was to do justice, and not to impeach right or wrong. The province of the House, in such a case, was no doubt similar to that of a grand jury. "An impeachment by the House of Commons," says judge Blackstone, "is a presentment to the highest court of criminal jurisdiction by the most solemn grand inquest of the whole kingdom." The same author tells us, that "a grand jury ought to be thoroughly persuaded of the truth of an indictment, so far as the evidence goes, and not to rest satisfied merely with remote probabilities, a doctrine that might be applied to very oppressive purposes."—Such a doctrine was once maintained, in the case of lord Shaftsbury in the reign of Charles 2, when it was laid down by lord chief justice Pemberton, "that the grand jury had only to consider whether there be probable ground for the King to call the person accused to account." But this was most justly stigmatized as an unsound opinion; and it had since been held, that no man ought to be so questioned, "unless a grand jury state it on their oaths that they believe the matter of the accusation to be true." This is agreeable to the oath which a grand juryman takes—"to present the truth." The contrary doctrine would be very inexpedient in another point of view; for when one is brought to trial upon insufficient evidence, he must be acquitted; and as no man can be tried twice for the same offence, this amounts to an act of indemnity in his favour, though clear evidence should afterwards be obtained. It was in a peculiar manner necessary to attend to these principles in a case such as the present, where the subject of inquiry was not only who was the criminal, but whether a crime had at all been committed? After adverting a little farther to the manner in which the prosecution had been conducted, and to the arrangement of the charges, which he thought the most perplexed and most unnatural he had ever met with; he added that he would endeavour, coolly and impartially, to examine the several articles, and the amount of the evidence upon them, without entering into minutiæ, and following precisely the order of the charges themselves. He had always thought those articles which contained a direct and specific charge of corruption, by much the most important, not only as standing by themselves, but as pervading all the others, and accounting for Mr. Hastings's conduct in general, if it was wilfully and intentionally wrong. It was a fundamental principle in the criminal law of every country, that in order to constitute a crime, two things were necessary, 1st, the commission of some overt prohibited act; 2d, a vicious intention. Both must concur, otherwise there was no actual crime. Sometimes the intention may be presumed from the act, but still both must concur; and if this be the rule by which the most common delinquent must be tried, it is still more necessary to be attended to in the case of men in public situations, who are called upon to act and to decide, and sometimes have only a choice of difficulties. A man in such a situation may perhaps judge ill, and

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act imprudently; but was there any law by which error in judgment became punishable? It may be right to deprive such a man of his office as unfit to be employed; but is he to be arraigned as a criminal, if it does not appear that he wilfully erred? The mischief must be great indeed, and the degree of guilt evident and notorious, to justify such a proceeding. The question here was not, whether Mr. Hastings had done wrong in some particulars, but whether he had done wrong to that extent which should found an impeachment against him? The accusers, being sensible that it was necessary to ascribe a bad motive and a wicked intention to Mr. Hastings, have set out in the preamble of their amended charges with imputing to him in direct terms "the base and corrupt design of procuring, for himself and his dependants, exorbitant wealth." This then is the ground-work of the whole, and to be first considered.

These charges of corruption were classed under two heads, the contracts and the presents. As to the first, he was persuaded the House would, upon due consideration, think it right to follow the example of a right hon. gentleman, who, in the Committee, confined his views to three articles, the opium contract, one of the bullock contracts, and the allowances to sir Eyre Coote. As to the opium contract, it was a little hard not only to deprive Mr. Hastings of the merit he had in being the first who turned this article to account for the Company, but even to make it the ground of a charge against him. The contract had been given in general Clavering's time to Mr. Griffiths, as the lowest bidder, afterwards on the same terms to Mr. Mackenzie, who was no friend of Mr. Hastings, and then to Mr. Sulivan, likewise on the same terms, burthened with 90,000 rupees to a relation of Mr. Francis, which showed that it was not the sole act of Mr. Hastings. This contract had always been considered as matter of patronage, and he saw less reason to find fault with Mr. Hastings than with other members of the council. On that account, the bullock contract, he thought, was in a similar situation. As to sir Eyre Coote's allowances, sir Eyre claimed extraordinary allowances when in the field; and this had always been customary. It was difficult to contest a point of this kind with the commander-in-chief, who had his sword in his hand. It was not the sole act of Mr. Hastings, but the majority of the council, consisting then of five; of Mr. Hastings, Mr. Barwell, sir Eyre Coote, Mr. Wheler, and Mr. Francis. When sir Eyre Coote went to the country of Oude, it was thought reasonable that the burthen of this allowance should be thrown upon the Vizier, who had the benefit of his protection, and the Vizier consented to it. It did not occur to him what great degree of blame there was in all this. Sir Eyre Coote appeared to have had a desire for money. He at the same time performed very meritorious services. Mr. Hastings did not put a shilling in his pocket by any such allowances. His employers were likewise satisfied. With what propriety, then, did this House interfere? The same observation held as to the contracts in general. It was a remarkable circumstance, that we did not find any relation of Mr. Hastings provided for, to the amount of a shilling; he had a nephew in the service who was only a lieutenant; and we saw no view to any influence at home, unless in the single instance of Mr. Sulivan. The charge concerning the presents was to be considered under two separate heads: first, some alleged instances in 1772 and 1773; second, those beginning in 1781. As to the former, there was not a vestige of evidence or probability that any such had ever existed, and therefore it would be improper to waste time upon them. As to the second, they were all admitted; and indeed the only proof of them was Mr. Hastings's own letters to the Board of Directors. He first took the two lacks from Cheyt Sing's agent in June 1780, of which a full account was given by Mr. Hastings in his defence, supported by Mr. Markham's evidence, and by Mr. Hastings's letter to the Court of Directors by the first dispatches after the transaction happened. The next was the nuzzar or gratuity received from Rajah Kelleram and Cullian Sing, upon farming to them the revenues of Bahar in October 1780. Mr. Anderson's evidence went to justify this as founded in immemorial practice, and he said that farmers and zemindars would agree to such extra payments, when they would not give any excess of rent. The other articles were mostly of the same nature; the ten lacks received from the Vizier in September 1781, were upon occasion of a very important transaction, the treaty of Chunar. Such presents had been customary from the beginning of time in those Eastern coun-

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tries upon all occasions of intercourse; and we were not to view them in the same light as we would do similar transactions in Europe. There would have been nothing wrong in any officer's taking presents, had it not been for the regulating Act of 1773; and it was clear that the prohibition of that Act reached no farther than the case of an officer's taking for his own use. It had not in view the case of an officer's taking for the use of the Company; the clause forfeiting the sum to the Company showed this, and penal laws were always strictly interpreted. Besides, this Act was repealed by the new India Act of 1784, and never could be the ground of prosecution. Mr. Hastings, therefore, was at liberty to take these sums for the Company's use, and so the Directors thought. The only argument of weight against him upon this head was, that although he was not in fact corrupted, yet he acted as if he had been corrupted, and thereby set a bad example to those who gave the presents. But, first, it would be strange to charge him as guilty of corruption, when in truth he was not corrupted. Second, his conduct was not influenced by any such transaction, as we saw from the case of Cheyt Sing, that the natives of India, accustomed to this practice from time immemorial, would not think there was any thing wrong in it. Third, the necessities of the Company at the time, and the fact of his applying all these sums to the Company's use, were strong grounds of justification. The Company having actually taken the benefit of all these transactions, and so far approved of them, and no intention being to this day signified from any quarter to refund the money so received, with what propriety could Mr. Hastings be impeached for procuring it? Mr. Dundas then took a short view of the affairs of Cheyt Sing, the treaty of Chunar, the resumption of the jaghires, and the seizing of the Begums' treasures, which, although detailed, and branched out into a variety of charges, did truly make but one piece of history, the incidents following one another in a natural manner, and all relating to the Company's connexions with the Nabob Vizier, which had been the source of great wealth and security to the Company, and to the public interest of this country in India. That the Governor and council had a right, and that it was their duty to call on Cheyt Sing as zemindar of Benares, dependant on the Company for extraordinary aids upon the emergency of a war, had been clearly made out in the Committee; and as to the intention which Mr. Hastings had of inflicting upon him a fine of 50 lacks for his contumacy, which was thought too exorbitant, this could not surely enter into the case, as in fact no such intention had ever been executed, nor even known to Cheyt Sing. The measure of resuming the jaghires stood justified by the Chancellor of the Exchequer as wise and politic, and was attended with no real hardship, the same allowances in money being continued. The plan of allowing the Vizier to insist also on having the treasures which truly belonged to himself, and were unduly withheld by his mother, arose out of the incidents which had recently taken place. She herself received no ill usage, but her two ministers, the eunuchs, were laid hold of, and this brought about a compromise. As to Farruckabad and Fyzula Kahn, the charges, he said, were trifling, and only founded on misrepresentation. Different expedients were tried from time to time; but both these parties were satisfied, and there was no complaint from them, or from any quarter of India. Neither was there any good ground of objection to Mr. Hastings, on account of the different modes which were adopted from time to time in the collection of the revenue. This would always happen in a new government. Mr. Hastings got enemies by discontinuing the provincial councils; but nobody who read Mr. Bright's letter, would think he was in the wrong so to do. Mr. Hastings had been most unjustly blamed for various acts of administration, in which he had only concurred with others. The order of dates, as well as the state of the council at different periods, ought to have been more distinctly attended to in the charges. Mr. Hastings had enjoyed the casting voice in the council only for a very short time, and even then Mr. Barwell was equally responsible with him. Afterwards Mr. Wheler, sir John Macpherson, sir Eyre Coote, and Mr. Stables, came gradually into the council. At one period a coalition took place between Mr. Hastings and Mr. Francis. How did the prosecutors account for this? And was Mr. Hastings alone to be made responsible during that period? Mr. Dundas concluded with observing, that, in suggesting what had occurred to him in favour of Mr.

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Hastings, he had avoided saying any thing upon the topic of his extraordinary services in general, being doubtful whether, upon the supposition of guilt in any specific article, a set-off, as it was called, or balancing of accounts between merits and demerits, would relevantly be admitted; yet, at the same time, it was a mode of defence not altogether new. The proceedings in lord Clive's case left no room to doubt that he owed his safety to it; and there was still a more illustrious example of it in history in the case of Epaminondas the Theban general, who, when tried for his life before the tribunal of his country, for having kept himself in command four months after he should have laid it down, acknowledged the crime, but enumerated the glorious actions which he had performed, and said that he would die with pleasure if the sole merit of these were ascribed to him, his countrymen having examined them. This speech procured his acquittal; and whoever read the history of India during the late war, would be apt to think that Mr. Hastings might die when he pleases, with similar words in his mouth.

Mr. *Courtenay* declared that every man must look up to a noble lord (Hood) with the utmost respect and reverence, when it was considered how much his country was indebted to him for having been a spectator of the victorious feats of the brave lord Rodney on the 12th of April 1782. [A general cry from the Treasury side, of Order! order! and sir Michael Le Fleming rose up, and said, "if the House will bear this, all spirit is gone."] Mr. Courtenay asked where was the mighty harm of his having complimented the noble lord on his happening to be present when admiral Rodney obtained his victory on the 12th of April 1782? He meant what he said as a compliment, and surely there was no occasion for any member to fly into a vehement passion, and call him to order, when he was persuaded that he had said nothing disorderly. The worthy alderman (Wilkes), he was sure, would not be so captious, but would have more sense than to feel angry when he meant him a compliment, which he certainly did in what he was going to say. The worthy alderman, of whose ingenuity he was well aware, was a most respectable character; a character to whom the country stood highly indebted, for having at one period of his life diffused a spirit of liberty throughout the general mass of the people unexampled before, expecting only in the singular times of Jack Cade and Wat Tyler. That worthy alderman had spoken in favour of Mr. Hastings, who had likewise been elaborately defended by the right hon. gentleman who spoke last; but, upon a review of the defence made by him and the noble lord and worthy alderman, their arguments would be found to be the most singular and extraordinary that could possibly have been urged. The worthy alderman had mentioned the affair of the Begums, and had defended it by saying that the Begums were in rebellion against Mr. Hastings. Surely the worthy alderman must have looked upon the transaction obliquely, or he never could have formed such an idea. Two old women in rebellion against the Governor-general of Bengal! The fact was impossible; it could not have been so. Nor would the worthy alderman have made an Essay on Woman in the manner that Mr. Hastings had done. That House well knew that he would not. But the lord advocate had chosen to defend the treatment of the Begums' ministers, and said, the eunuchs brought it upon themselves. Had they given up the money, they would not have been flogged; it was put to their option, and was a compromise. They would not give up the money, and therefore the flogging was fair. This put him in mind of a well-known fact which happened many years ago. One of our kings (king John) wanted to borrow some money of a rich Jew, but the Jew refused to lend any. He was then brought before the King, who ordered one of his teeth to be drawn. The Jew still refused to lend the money. The King ordered another of his teeth to be drawn. The Jew was yet obstinate; a third tooth was drawn, and he then consented. The Jew therefore, according to the learned gentleman's argument, drew his own teeth; for it had been put to his option whether he would lend the money, or have his teeth drawn; and he chose the latter. Another extraordinary argument made use of by the learned gentleman was, his contending, that although Mr. Hastings took the present of the Nabob Vizier, he nevertheless rigorously exacted the immediate payment of the Nabob's debt to the Company, and consequently proved that the present had not produced a corrupt effect. This reminded him of a case in point, which happened in James 2d's time in 1686, when there being some insurrections in the West, general

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Kirk was sent to quell the disturbances; an office which he executed with great severity. It happened that a young man was taken up as a delinquent, who was just going to be married to a young woman, and between them a mutual and an ardent passion subsisted. The young woman went to the general's tent, and implored mercy for her lover. The general told her, if she would suffer him to enjoy her, her lover should be saved. The young woman consented; and the first thing that Kirk did in the morning, was to lead the young woman out of his tent, and show her the body of her lover hanging on a tree. In this instance, according to the learned gentleman's argument, general Kirk acted with strict justice, and in a laudable manner; for, though he enjoyed the woman, he did his duty, and hung her lover. The learned gentleman had laid great stress upon the motive and the intention, declaring, without proving, that the House, as accusers, had no right to ascribe guilt. This was new to him. He had hitherto always thought, that, if the criminal fact was proved, the criminal intention was presumed. But, according to the learned gentleman's doctrine, if a man were to murder another, and not to rob him, he would be guilty of no crime, because he only murdered his object; and who could impute a criminal intention, since it was evident he had not robbed him, although he might have done so? With arguments as absurd and ridiculous as those he had answered, was Mr. Hastings defended. What he had said, therefore, was a sufficient answer to all of them; for no real argument, solid, substantial, and rational, had been brought to prove that Mr. Hastings had not acted uniformly upon a system of treachery, breach of faith, corruption, oppression, and injustice; without a regard to his engagements, to his duty, to his station and character. Mr. Hastings had, in the course of the preceding debates, been compared to Verres, to Alexander, to Scipio, and to Epaminondas. He thought the first the comparison most in point; but he would not refer to the Romans and Grecians for a comparison. It was so long since he had read books relative to them, that he had almost forgotten their contents. He would look to more modern history for a comparison, and he recollected an apt and a close one. It was Ferdinando Cortez to whom he alluded. Ferdinando Cortez had been sent out by Charles V. to make discoveries in South America, to instruct, to murder, and to baptize the uninformed Indians. He pursued his object, and his footsteps were marked with blood and cruelty; insomuch that the news of this brutality reached Madrid, and was thought so great a national disgrace, that an inquiry into his conduct was deemed due to the national character. The bishops and archbishops, who united in their own persons the characters of prelates and chief justices, were ordered to conduct the inquiry. Cortez was accompanied by one of these chief justices, the archbishop of Toledo, whose object it was to go about and collect affidavits. In order to clear themselves from the charge, they contrived to get several affidavits sworn that the deponents heard a chorus of angels sing in the Mexican language, *gloria in excelsis*, and the blessings of Heaven upon the head of Ferdinando Cortez, for his humanity and benevolence to the Mexicans and Peruvians. The archbishop of Toledo transmitted these to the bench of his reverend brother chief-justices; they persuaded the people to believe the facts deposed; a general credulity prevailed, and at the same time Cortez sent Charles V. some jewels, not a bulse he believed, for that was an oriental word not then known in Europe, but which had an equal effect upon the Spanish monarch's mind, and all Spain rang with the praises of Ferdinando Cortez. Extravagant and ludicrous as this story might appear, it was an undoubted fact, and stated as such in the letters of Cortez to Charles V. Mr. Courtenay concluded with declaring that he should vote for the second reading of the Report.

Mr. Alderman *Townshend* said, that he did not rise to make jokes and tell pleasant stories, nor to express himself in terms so gross and indecent, that they were not fit to be heard in any assembly where the smallest pretensions to propriety were affected. He had not called the hon. gentleman to order who spoke last, because he meant to answer what he said; but he was astonished that the Speaker neglected to stop the hon. gentleman, and tell him that such language was not to be borne in that House. The Alderman appealed to the candour and feelings of gentlemen, whether, in a criminal proceeding, and while they were sitting in the capacity of grand jurors, it was either decent or becoming to abuse a gentleman who stood as a criminal at their bar, in a man-

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ner so full of grossness and personal asperity? He then reminded the House that he had, in the beginning of the business, urged the extreme impropriety of carrying articles to the House of Lords, which they would have thrown back in their faces, as incapable of being established by evidence. The fact had turned out exactly as he had foretold. To the charges that had been voted he had patiently attended, and had not heard one of them made out clearly and satisfactorily; if therefore they went up to the other House, they must fail there, and the disgrace that they meant for Mr. Hastings would be their own. He had heard the honour and justice of the House appealed to—in his mind, very improperly. He asked, what honour was there in hunting down an individual, who deserved the thanks of his country for having done it the most essential services? and who was it that complained against Mr. Hastings? As to justice, if that were truly the motive of the House, why did they not make retribution to the persons from whom Mr. Hastings had taken the money, which he had applied to the necessary purposes of the Company? Mr. Townshend justified Mr. Hastings on the ground of state necessity, and said, he deserved the highest applause for not having stood upon so paltry a punctilio, as considering whether it was rigidly correct and legal, when he was about to execute a measure essentially necessary to the immediate service of the Company's affairs, and to the salvation of India. He recollected when lord Chatham, with an activity that did him the highest honour, foreseeing that the French were preparing for war, sent orders to seize upon a number of French ships, and publicly sold them and their freights before there was any declaration of war. At that time, though undoubtedly as there had been no declaration of war, the act was in itself illegal, nobody thought of blaming him, but, on the contrary, the country rang with his praises; yet, as the nation meant justice, the money that the ships sold for, to the value of 600,000*l.*, was afterwards ordered to be returned to the innocent individuals to whom it belonged. The Alderman reasoned upon this, and said, that making restitution to the persons whose property had been taken, would be more like an act of justice than hunting down an individual against whom no complaint had been made. He concluded with expressing his hope that the House would that night put an end to the proceeding, by consenting to the worthy Alderman's motion.

Mr. *Nathaniel Smith* rose with expressions of distrust of his abilities, to explain his sentiments on the present occasion in the manner he wished to do. But, after the information he had derived from the Company's records, and the opinions he had deliberately avowed as a Director of the East India Company, upon the political conduct of the late Governor-general, he could not reconcile it to his feelings to let so important a subject, with which he had been in another place much connected, pass, without stating to the House the motives which had determined him to the vote he intended to give that night. The charges went to affect the character, the reputation, and the fortune of a fellow-subject, who had filled a high and important station under his country for 13 years; and when he considered that the grounds and motives which impelled Mr. Hastings to those pursuits and actions now arraigned by this House, were, from distance of time and place, involved in a great deal of obscurity, and in several respects misrepresented; much as he condemned his political measures in various instances, he thought it a degree of justice due to the accused to remind the House of certain transactions long since past, but which, in their consequences, led to those measures from whence the charges have been drawn.

He then observed, that it had proved a very unfortunate circumstance to this country, that, when we first came into the possession of the Duannee or royal revenues of Bengal, a strange infatuation prevailed, arising out of sanguine representations from abroad, that the sources of our new-acquired wealth were almost inexhaustible. Slumbering in security over this idea, the Ministers and the Company were alike solicitous to obtain large annual remittances, from that new-acquired wealth, to England. Therefore, in 1767, the second year after the acquisition, Government brought the Company to stipulate for the yearly payment of 400,000*l.* out of their revenues, as a participation for the public of the surplus wealth of Bengal. The proprietors were induced to accede to these proposals, by the hope of some small annual increase of their commercial dividend, till it extended to 12½ per cent., and which Government might otherwise have prevented. In strict justice, the discharge of the Company's debts

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ought to have preceded every other consideration, the duties to the Crown excepted, as they had been contracted for the attainment of these new acquisitions, and for the carrying on a long and expensive war in the Carnatic; a war the Company had not been in the least accessory in bringing on, but the contrary: for they had used every means to avoid taking a part in it; but were at last, in their own defence, dragged into it by the restless ambition of France, and her intrigues at the courts of the native princes.

This inconsiderate eagerness in the Ministers, after immediate gain from the newly-acquired revenues, was in the highest degree improvident; whilst every other object relative to India, however important in its nature, appears at that time to have been neglected. Not the smallest consideration was paid to the abilities of the country to afford, besides the current demands of the several governments in India, so large a surplus from the revenues as became necessary to supply the wants at home. The Directors' instructions undoubtedly cautioned the rulers in India against entering into wars with the princes of the country, and constantly recommended moderation, justice, and good faith, towards them. At the same time the Directors, in their letters to India, were under the necessity to enjoin their servants in the strongest terms to send home large annual investments, without drawing bills on the Company, in order to realize in England such considerable remittances from the revenues, through the medium of the trade, as should enable the Company to keep their engagements with the public, and that Government might on no account be disappointed. This intemperate zeal on the part of the Ministers to grasp at immediate wealth, he considered as the origin of the wars in India, and of all those distresses and embarrassments in which we were involved during the latter years of Mr. Hastings's government. For the rulers abroad, goaded by the pressing demands of the Company to send home large annual investments, without drawing bills on England, and anxious at the same time, which may naturally be supposed, to gratify the only object Ministers appeared to have in view, or to be in the least attentive to, with regard to India. When they found, therefore, that the regular resources arising from our revenues were inadequate to answer the exigencies of the several governments in India, and supply the wants at home; and when they perceived that any doubts or apprehensions of the insufficiency of our revenues to provide for the engagements to Government, were either disregarded or ill received, the rulers in India had recourse to treaties for subsidy or tribute from the neighbouring states in return for protection and assistance. And hence it was, that Mr. Hastings, in 1773, a year and a half after he came to the government of Bengal, in order to relieve the distresses he had found the country groaning under, from an exhausted treasury and a heavy bonded debt, was impelled to depart from that wise and prudent system of defence which alone had been recommended by the noble lord from whose valour this country derived its present possessions in India.

Mr. Hastings having departed from this defensive system, by extending it to an offensive alliance with the Nabob Vizier of Oude, launched at once into that wide and dangerous sea of politics, in which the ministers of this country and the Company have been floating ever since, at least till within these last two or three years, when the late Act of Parliament confined them again to the wiser and safer system of defence alone. He was justified, in the reasons he had assigned for Mr. Hastings's conduct, from the Company's records; for, at the end of 1773, on his return from Benares, some altercation arising at the council board, from a member having reproached him for surrendering up the Mogul's two provinces of Corah and Illiabad to the Vizier, he replied that his object had not been extension of territory, but merely the attainment of a sum of money to relieve the distresses of Bengal, and assist the wants at home. And Mr. Hastings, in a letter to Shah Allum about the same time, in reply to his demand of tribute, says, "The edge of misery to which this country is reduced, must ruin it beyond redemption, should we drain it of its little remaining wealth." The Shah had two years before quitted the Company's protection, and taken shelter with the Mahrattas, who were then our enemies: therefore, admitting the treasury to have overflowed at that time, it would have been not only the height of folly and imprudence, but of treachery also to his country, if in the Shah's situation Mr. Hastings had paid the tribute; yet the not doing it has been brought as a charge of criminality against him. The Company's

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affairs at home, about this period, (the latter end of 1772) were in so great a state of distress, that Government, alarmed for the effect it might have on commercial credit in general, obtained a loan from Parliament of 1,400,000*l.* in Exchequer bills, to induce the Bank to advance to the Company a sum of money to that amount, under the guarantee of the public.

Such was the gloomy prospect of the Company's affairs in India and in England at the time when Mr. Hastings made the treaty of Benares with the Nabob Vizier of Oude. The distresses abroad had arisen solely from the extravagant requisitions made from home for constant annual remittances, beyond what the revenues of Bengal could afford; whilst the distresses at home had been entirely owing to the heavy drains upon the Treasury in Leadenhall-street, to discharge the participation or tribute government had obtained from the Company for the use of the public, before ministers were at all confirmed in the abilities of the country to admit of such a drain, and which they continued to exact without inquiry or examination, after apprehensions had been expressed of the ruinous consequences that must ultimately attend a demand so much beyond what the revenues were at all likely to afford for any continuance. For, exclusive of the expenses incurred by the Company for stores, recruits, and various other disbursements, that have no reference to commerce; exclusive of the additional exports in the manufactures of Great Britain, and of the great increase in duties to the Crown, and in all the commercial charges from the extension of the investments from India, which operated, at the same time, to occasion a considerable diminution of the profits that used to arise from the trade; Government had taken, under the plea of participation, between March 1767 and September 1772, 2,200,000*l.* and laid claim to a farther sum that would be due on the same account the 25th of March 1773, of 170,000*l.* Hence arose the real cause of the deficiency in the Company's treasury to meet the regular demands. The Company had, in the same period in which government obtained near 2,000,000*l.*, received no more than 614,000*l.* on the proprietors' account; and if the amount of the reduction on the commercial dividend below 8 per cent. during this interval of distress, which came to 306,000*l.* be taken from the above excess of 614,000*l.*, the remainder, about 308,000*l.*, will give the whole amount that the proprietors have received, beyond a commercial dividend of 8 per cent. in the space of 22 years, from the first attainment of the Duannee, in return for all the expenses they have incurred, and the hazards to which their commercial property has been exposed for upwards of thirty years. The advantages derived from the alliance entered into with the Vizier in 1773, were very considerable, and came at a fortunate juncture to release the credit and engagements the public had entered into, in order to assist the Company; for, after such large exactions, the ministers could not in conscience suffer the Company to fail, from neglect on the part of Government to support them.

By means of the pecuniary aids from our alliance with the Vizier, the treasury of Bengal became replenished, the debt on bond there, to the extent of 130 lacks, or 1,300,000*l.*, discharged, and such very considerable supplies sent home, as enabled the Company to pay off the 1,400,000*l.* in Exchequer bills before they became chargeable on the public; also to pay off the 170,000*l.* due to Government on account of participation, and to reduce their own bond debt at home from near 2,900,000*l.* to one million and a half. These debts paid off, the Company had no sooner returned to their commercial dividend of 8 per cent. than the minister, taking advantage of the momentary state of the treasury, on the 1st of March 1781, laid claim, under the plea of participation, to 600,000*l.* out of 760,000*l.* which from accidental circumstances appeared upon the balance of the cash account at that period: this payment claimed by Government was afterwards adjusted at 400,000*l.*; but the demand had been made without ever reverting to the state of the current debts of the Company, in order to shew what was due, or growing due, upon the duties and freights of those goods which had been brought to market in the September sale; and being cleared before the prompt, had occasioned the balance in the treasury; whereas, if a large part of the goods, as has often happened, had not been paid for till after the 1st of March, the balance of cash in the treasury would have been very inconsiderable.

Mr. Smith observed, that he did not mean to infer that Government had no

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ground of claim to the 400,000*l.* under the hard bargain the Company had improvidently yielded to; but that he meant to show, from this rash and hasty proceeding to demand so large a portion of an accidental balance, after the warning experience had held out of the inability of the resources in India to afford such heavy drains as Government seemed desirous to exact, that their conduct plainly pointed out such an eagerness in ministers after immediate gain, as left the Company no room to expect the smallest indulgence in future, whenever any considerable balance remained at the annual close of the cash account. The effect this demand had upon the Directors was, to drive them to the necessity of calling for the continuance of large investments without drawing bills of exchange: whilst the servants in Bengal, finding the former extraordinary supplies almost exhausted; that casual aids seemed to be the principal object ministers looked up to from India; and that they had expressed no disapprobation of the temporary alliance made with the Nabob Vizier in 1773; which it undoubtedly became the immediate duty of the servants of the Crown to have done, whenever they saw political misconduct in any of the measures adopted by the Company in England or in India:—from these circumstances the supreme government were stimulated to pursue farther extraordinary aids from similar alliances with other states, in return for protection and assistance; by which means the Governor-general became entangled in negociations and intrigues with the Rajahs of Bundlecund and Berar, the Rana of Gohud and others, until the jealousies of the three great powers of Decan and Indostan became awakened for their future safety; and encouraged by war breaking out in Europe, whereby France was enabled to take an open and active part in the politics of India, and afford them assistance; and being farther emboldened by the disgraceful convention at Wargaum; those native powers were induced to throw aside that natural distrust and animosity towards each other, so prevalent among despotic states, and to enter into one common league for our destruction, by determining to attack us at the same time in Bengal, the Carnatic, and on the western side of India: and hence arose that formidable combination for our extirpation made between the Nizam, Hyder, the Peshwa, and the several Mahratta states.

He desired, that he might not be considered by the House as a defender of Mr. Hastings's political conduct. On the contrary, he said, that as a Director, he had constantly opposed every attempt to grasp at offensive alliances in India for the attainment of subsidy, tribute, or dominion, or the right to interfere in the internal government of any state the Company might enter into, alliance with, upon the ground of their protecting authority. These he had opposed, because he held such an extensive system of policy incompatible with the true interest of Great Britain in her relative situation to those dependant provinces so distant from the seat of empire; dangerous to the lasting security of those provinces; and unavoidably leading, from circumstances arising out of situation, to frequent acts of oppression and injustice; not from any peculiar depravity of mind in those particular persons to whose lot it had fallen to be sent into such situations; but from the imperfections inherent throughout human nature, which under similar temptations would operate on almost all mankind alike, and prompt them to embrace the same pecuniary advantages when they came in their way.

For, said Mr. Smith, when two powers exist in the same state, neither of which can legally control the other, as in the case of auxiliaries, whose strength happens to exceed the military force of that state which solicits their protection, the natural consequence must be, that the existing state being the opulent and weaker power will, in order to guard against oppression and irregularity from the stronger, have recourse to intrigues and pecuniary indulgences to keep the protecting forces in temper, and prevent them from running into exactions and excesses difficult to detect, or to restrain when detected:—that this sort of double government or undefined authority had prevailed in the Carnatic these thirty years past; in Tanjore ever since 1773; and has been precisely the situation in Oude from 1775, when, upon the death of Sujah Dowlah, the supreme government entered into a new and more extensive treaty with his son and successor; making Oude the northern barrier to the British possessions; and stipulating to receive certain monthly payments for the maintenance of a whole brigade, to be stationed for the protection of the Vizier's country in cantonments on its western boundary. A civil establish-

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ment of a resident and assistants was likewise fixed at Lucknow, in order to pay the troops, and for the purpose of receiving the stipulated subsidy as the monthly payments became due; to watch over likewise any intrigues carrying on at the Vizier's court, which the resident was constantly to keep the supreme government informed of from time to time, and to give the Vizier his advice as occasion might require. Besides these British forces, the Vizier had about 8,000 horse and foot, which were considered to be more immediately his own; these were to be paid under the inspection and authority of the resident, and to be disciplined and commanded by British officers selected for that purpose; but whilst they remained in the service of the Vizier, and were considered as his troops, these officers were not liable to martial law: by this measure forty-eight British subjects were placed over his troops, who were under no control from the laws of their own country; so that removal or recall remained the sole remedy against any excesses they might run into, and the only punishment for any oppressions or exactions they might commit.—He said, this treaty and these new and extensive arrangements had been made when Mr. Hastings had not the ascendancy at the Council-board, therefore they ought not to be imputed to him; they were made when general Clavering and Mr. Monson's influence predominated there; two men whose memory he highly respected, whom he considered to have been as upright characters as ever lived, and who would never have committed so gross a mistake, could they have foreseen the consequences. However, this great error in suffering British subjects in Oude to exercise military authority independent of any legal or regular control was, in his opinion, the origin or principal source of all the excesses and irregularities which had arisen in the Vizier's country, and which no subsequent checks or restraints had been able to counteract in any material degree, or to any effectual purpose.

If, said Mr. Smith, we may be allowed to judge from Mr. Hastings's minutes and remarks from time to time, it will clearly appear, that he early saw the dangerous situation in which our protecting influence had involved the dominions of Oude; he felt for the distresses our connections with the Vizier had brought upon his country but he knew not how to disengage us; on the one hand, he was afraid that to continue our protection would end in the impoverishment and ruin of the dominions of Oude; on the other, to retire he seemed to think was impossible with any degree of credit to the British name in India, or with the safety and permanent security of those valuable acquisitions of Great Britain, the provinces of Bengal and Bahar. From these embarrassments, he asserted, those various changes and alterations had arisen, which were to be found in the late Governor-general's minutes and resolves in council, and in his instructions given at different times to his agents in Oude; and whoever perused them dispassionately and with attention, would easily trace Mr. Hastings's apprehensions for the fate of that country, and would perceive his solicitude to preserve it from falling a prey to domestic dissentions, or from being dismembered by the imbecility and distraction of its government, the rapacity and treachery of its own subjects, and the secret liberalities of the Vizier to his protectors. However, he observed, Mr. Hastings may have erred in political measures, and erred he certainly had; however unfortunately for the Company those measures had closed, he was convinced the late Governor-general was actuated by no private motives, but merely from a laudable desire to aggrandize and enrich his country. The temporary alliance entered into with Sujah Dowlah in 1773, he reminded the House, had been productive of essential advantages; having relieved the Company from very alarming distresses both abroad and at home, and which had been entirely owing to the inconsiderateness and precipitancy of ministers; who, he conceived, were by no means ignorant at the time of the source from whence those pecuniary advantages were derived; and certain he was, that they had never stated that source as a ground of objection on their part, to appropriate the money so procured to the uses of the public; though Government had received seven-eighths of the aids derived from that temporary alliance.

He said, that the subsequent alliances, or rather negociations for those purposes, did not prove so successful as the treaty made in 1773; they had not only been unproductive of any pecuniary advantages but had led to combinations and wars against us, which were attended in the end with alarming and humiliating circumstances. The dangers and distresses from those wars with Hyder and the Mahrattas

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were greatly increased by two events, which the supreme government were in nowise responsible for. The one was the war in Europe, whereby France became enabled to take an active and open part in the politics of India, and to encourage and assist our enemies. The other was the fatal catastrophe which befel the Carnatic, from Hyder's uninterrupted irruption when he first marched against it; by which means he committed such devastations, as he advanced, as made it difficult to dislodge him. This arose entirely from neglect and inattention on the part of that government which immediately preceded lord Macartney's arrival. Fortunate indeed it would have been for the Company, if his lordship's appointment to the head of the government of Fort St. George had taken place ten or twelve months sooner than it did; Hyder, in that case, would have been met at his first entrance into the Carnatic, by a force sufficient to drive him back, or else by invading of Mysore, our troops would have found him full employment in the defence of his own dominions. If neither of these two unfortunate events had happened, there would have been a reduction of at least three millions in the expenses incurred in the general war in India, without reckoning any part of the accumulating interest that had arisen since the peace took place. If the Company had only had the three native powers to contend with, and the government of Fort St. George had been prepared to counteract the views of Hyder, formidable as their combination appeared, this country, beyond a doubt, would have dictated the Mahratta peace, and the conditions would in that case have been as honourable as they were humiliating.

He said, that the Carnatic alone, from the ravages to which it was exposed, and the temporary annihilation of a very considerable part of its revenues, had been necessitated to draw supplies from the supreme council, which in three years had amounted to 200 lacks of current rupees, and 84 of them in specie. These heavy drains to provide for the troops in the Carnatic, joined to the enormous expences incurred by the army warring on the western side of India, so exhausted the resources of Bengal, as to drive the Governor-general, in the hour of danger and dismay, in order to relieve the public wants, to act upon the despotic principles of those Asiatic States; by endeavouring to extort from the Rajah of Benares some portion of the wealth he had hoarded in Bedgee Ghirr, and to exact from the Begums of Oude, under the concurrence of the Vizier, the payment of the arrears of subsidy due from that country, in return for our protection; the treasury of the Begums being the only resource in the Vizier's dominions, from whence those arrears could be discharged. The Nabob Vizier, he observed, was a weak and indolent prince, and his revenues were at that period in a very declining state, the districts under the Begums excepted; who would sooner have parted with the whole of their treasure to promote our ruin, than a part of it to assist us. That the country of Oude was in much confusion; the government feeble and ill administered; which must ever be the case, where an ill-defined authority and secret influence prevailed: that the Vizier's minister was rapacious, and treacherous, alike to his master and the company; that the great men of Oude, disgusted at our control or interference, and jealous of our future designs, were discontented with their prince, whom they despised, and ripe for revolt: that the subsidy due under treaty was largely in arrears, and rapidly increasing.

In addition to the brigade stationed in Oude, he said the war had made a farther detachment of five battalions necessary for the protection of Rohilcund: these troops, as well as the brigade, the Vizier had stipulated to pay for; but, from failure in the discharge of the subsidy, the troops in Oude had fallen into arrears, and Bengal was totally unable to afford from her treasury the smallest assistance towards their support. That, at the period alluded to, the end of April 1781, Fort St. George owed on bond, and on arrears, in the civil and military departments, upwards of 26 lacks of pagodas, with not quite a lack of pagodas in the treasury, and above 40,000 forces in the field, under the presidency acting for the recovery of those districts in the Carnatic, which Hyder had wrested from us. That Bombay had no more than three lacks, 90,000 rupees in the treasury, and the debts on bond of that presidency amounted to upwards of 90 lacks of current rupees; whilst the Kelsa, or general treasury at Calcutta, had no more in it than six one-half lacks of rupees, bills receivable included; and the supreme government owed at the same time on bond and other debts 1,277 lacks of current rupees; a situation truly alarming, and which sufficiently indicated the

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necessity of procuring extraneous aids, by every method to be suggested; as four different armies were to be provided for in the field, amounting together to upwards of 100,000 regular forces.

Mr. Smith observed, the plan for exacting from the Begums a sum of money equal to the arrears, did not originate with Mr. Hastings, as he had been well informed, but had been first suggested, and afterwards encouraged, by the minister of the Vizier Hyder Beg Kahn; perhaps, to conceal the declining state of the revenues of those extensive districts under his direction, or to indulge his resentment against the confidential servants of the Begums, and at the same time gratify the avarice of himself and his dependants by the private plunder of the palace. Whatever might be the secret motive of the minister in the advice he gave at that alarming crisis, Mr. Hastings, finding himself surrounded on every side with distress and danger, adopted the advice; and it is to be lamented he did not fairly and openly avow the real motive for so oppressive a measure, rather than attempt to cover it under any other pretext. When the Begums had refused to comply with the requisition, force only could compel them. In the exercise of it some cruelties were likely to arise, and some would probably be magnified. The minister's treatment of the eunuchs or confidential servants of the Begums in their confinement, whilst they were under his care, was highly improper, and ought not to have been suffered where our interference could have prevented it. The withholding from the inferior women of the palace and the children the necessary subsistence for two or three days, was a wanton act of cruelty, not to be palliated. It could not in the least promote the object in view, and was sure to increase the national hatred against us. But this ought not to be imputed to Mr. Hastings; for he knew nothing of the circumstance till after it was over. The fact is, that it arose from a great want of attention on the part of the British agent, and the malice and resentment of the Vizier's minister, to whose direction the carrying of the measure into execution had been committed; whilst the British troops were only stationed to prevent tumults and insurrections on the occasion.

Mr. Smith, at the same time, gave it as his opinion, that the interference of British authority in the domestic concerns of the Vizier, or any other native Prince we had undertaken to protect, was not to be justified in the eye of reason or sound policy; nor ought any such measures ever to receive the sanction or approbation of that House. He lamented that the transactions of Benares and Oude had been revived; as he sincerely wished that they had been left to sink into oblivion. For however Mr. Hastings might, out of political prudence, be solicitous to furnish some colourable ground, at the time, in the eyes of the surrounding states, for this arbitrary conduct towards the Rajah of Benares and the Begums of Oude, and there might be policy in such a step; yet the real motives that impelled him to those acts were undoubtedly to procure considerable sums of money for the public service at a dangerous crisis. The methods that had been used to obtain the money, were violent and oppressive, and such as are too often practised in Asiatic governments; but which the mild principles of our happy constitution teach us to turn away from with disgust and horror. That the sanction and recommendation of the Vizier, or any other Indian Prince, could never be considered as a justification for the interference of British authority in any such despotic measures; that he considered the sole extenuation, the only possible ground on which acts of so much violence could in any degree be vindicated, to rest upon the critical situation of affairs, and the pecuniary distresses Bengal laboured under at that time, and which appeared from the state of the treasuries in 1781; as they evidently shewed the exactions to have been made upon the spur of necessity, to assist the pressing demands pouring in upon the Bengal treasury from every quarter where our numerous forces lay; and to prevent, if possible, the armies in the field under different leaders from falling too largely into arrears, lest any of them should be tempted to disband or mutiny for want of pay; either of those circumstances, in the alarming situation of the Company's affairs, must have proved fatal to the British existence in India: but if disaffection had spread among the native troops, and mutiny prevailed, if that dangerous flame had once been lighted up, a general massacre of the Europeans would probably have ensued, and not a Briton have returned to relate the melancholy event.

Much had been said on the subject of the presents, and criminal charges had

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been founded on them, not from proof of their having been taken for private or corrupt purposes, but from suspicion arising out of secrecy in the receipt or acceptance. For his part, he was confident they had been applied to the uses of government, however blameable the Governor-general may have been, how much soever to be condemned for having originally received them. That the higher the rank of any transgressor, the more dangerous became the example from such transgression; from which consideration alone, in all probability, arose, he said, that mystery and concealment which had led to the suggestions of corrupt motives in the Governor-general. The first presents had been received in October and November, 1780, when the Company's situation was serious and alarming; the others had been obtained in 1781; and a review of the several treasuries at the time of the arrears then owing, and the debts that had been contracted, will clearly point out our pecuniary distresses in India at that period. He had been confirmed in his belief of the application of the presents to public uses from private information, derived from a man of high integrity, a brave and gallant officer now no more, but to whose valour and military talents the Company were much indebted. This information was conveyed to him for very different purposes, and related to a different subject; but some explanatory circumstances that accidentally occurred had fully satisfied his mind as to the intended application of the presents, and the motives and objects which had induced Mr. Hastings to deviate from instructions he would else have faithfully adhered to. He did not mean to say Mr. Hastings was fully to be justified in breaking through regulations it was his duty to maintain; but he meant to observe, that an executive power, delegated to a few individuals alike, without any real distinction of authority existing in any one of its members over the rest, had generally been found one of the worst among the different systems of government that had prevailed in the world. That Mr. Hastings had a nominal authority and an additional responsibility, as the first member of the government; but in its executive acts his real power did not extend beyond a single voice, the same as every other member, whilst the second member of the government being the Commander in Chief, naturally drew after him the military influence. He observed, that the system Mr. Hastings had to struggle with, was, from its nature, liable to contention, procrastination and delay. For an executive government, consisting of five men, each invested with equal authority, must be incapable of any great exertion; and that management or intrigue only could prevent its wheels from being continually impeded. That such a situation under great emergencies, where public good was evidently the object, would excuse a departure from general orders and restrictions, and almost justify irregularities to any extent.

Much had been said on the subject of zemindars, their rights and authority, and the suppression of their power in several instances had been thrown out as a charge of criminality against the late Governor-general. He apprehended, from the variety of opinions respecting their inheritance, that we were not clearly informed on the hereditary privileges and immunities annexed to the office and station of a zemindar under the Mogul empire. This he thought might, in a great measure, have arisen from the different ranks and authorities given to that description of men in different local situations. They had rights which under certain restrictions were hereditary; they had an interest in the soil from the permanency given to their situation; but the prince was the sole proprietor of the lands throughout the empire, and entitled to certain shares of their produce; however, he might sometimes alienate, or transfer in particular districts under different tenures and for different periods, a part or the whole of such portions, as rewards to individuals for military services, or as an encouragement to cultivation, or for charitable and religious uses, and various other purposes. That even the lands allotted to the zemindars, for the maintenance of their families, or the support of their dignity, remained with them no longer than they continued in their zemindary. That the office has usually descended to the posterity of the zemindar under the ceremony of fine and investiture; but a material decrease in the cultivation, or decline in the population of the district, had been sometimes considered as a ground to dispossess him. That when zemindars fail in their engagements to the state, though not to the extent to justify removal, supervisors or other officers of government had often been sent into the zemindaries to inquire into

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the causes, and had farmed out the lands, and exercised authority under the Duannee laws, independent of the zemindar. That many of those landholders, taking advantage of our ignorance when we first became masters of the country, alienated certain portions of their lands in their respective districts to relations and dependents, which rightfully belonged to the state, representing them to us under the description of ancient appropriations, for the purpose of charity, and for other religious uses. That such transactions were grounds sufficient to authorize a revision and inquiry, and to justify the governor and council in farming out the lands independent of the zemindars. That these were the motives which had led the servants in Bengal to interfere in the jurisdiction of the zemindars, and to restrain several of them in the exercise of their authority.

He then proceeded to remark, that he had never attempted, as a director to conceal or colour over Mr. Hastings's despotic acts, or any of the errors or misconduct in his political pursuits; that he had always acquitted him of private views, or any selfish motive whatever; having imputed those pursuits to the vices of ambition, and a mistaken zeal to enrich his country; but while he freely and openly condemned his political vices, he hoped and trusted that he had not been blind or inattentive to his public virtues; and which had marked his character in various instances: such as in his disinterestedness and contempt of money; in the liberality of his mind; in his encouragement to learned men, and to the promoting seminaries of learning for the attainment of the languages, the customs, manners, laws, and religious ceremonies of the Hindoos and Mahometans—circumstances which all descriptions of men who had resided in Bengal during any part of his government, alike concurred in, whether they had been countenanced by him or neglected. That, if he had been eager after wealth, if avarice had predominated in his breast, he might, during the 13 years he governed, have realized in this country more than half a million sterling beyond the reach of any power existing in our constitution to have legally taken it from him. He was confident his fortune was inferior to the fortunes of many who had served under him.

He asserted that the internal prosperity of Bengal had been well attended to under Mr. Hastings's authority; that the intricate system of finance had been fully searched into and explained under his direction, and was much better understood than when he came to the government; that his selection of men of abilities and integrity for that great end, and for other useful branches of information, the encouragement he gave to improvements in the cultivation of the soil, and in the manufactures of those provinces, and his unwearied attention to the general welfare of the British possessions in Bengal, would long be remembered to his credit in that country.—That many of the great families in Bengal had fallen into decay, or were dispersed, could not be denied; but that, he observed, must ever be the case, when countries not only change their masters, but fall under a foreign rule. In the Carnatic, the vestiges of the ancient principal families were done away in a much greater degree than in Bengal, without the same causes; but merely from the ambition and avarice of the Nabob of Arcot. That though the great families in Bengal were many of them dispersed or fallen into decay, yet the ryots, or husbandmen, the manufacturers, and every inferior description of inhabitants, he was well convinced, enjoyed as much personal freedom and security of property as ever they did under the wisest, the most powerful, and humane of their own princes; as they ever did under their favourite Acbar. That, during the complicated wars in which we were involved, the aids he procured in the exhausted state of the treasuries, the exertions and abilities he displayed, and the firmness and composure of his mind in the height of our distress, when almost a general despondency prevailed, greatly contributed to rescue the British possessions from surrounding dangers, which seemed to threaten our existence in India.

Mr. Smith then closed with remarking, that he had been anxious for the recall of the late Governor-general, because he did not think him calculated to measure back the steps he had trod, and to confine our future views of dominion within those bounds which he had widely departed from during his continuance in office, or to circumscribe within the limits of their former amount the expenses of government, which had been increased in the course of the war to an improvident extent in several instances. At the same time, he should be very sorry, if, from any

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circumstances which appear in the charges, the House should come to a severe decision against the accused; for, after the deepest researches into the charges brought against him, and the coolest and most dispassionate consideration upon the subject, when he took a review of the whole tenour of Mr. Hastings's government through the course of 13 years, he could not avoid giving it as his sincere belief, that the errors in his political conduct were so greatly overbalanced by his public virtues, and the essential services he had rendered the nation at large, as well as the Company, that he justly deserved, instead of disgrace, to receive a generous and liberal treatment from his country. These sentiments, he observed, had determined him to vote against the impeachment.

Mr. *Pitt* said, that he had deferred giving his sentiments on the question so long, because he found many gentlemen who were averse to the prosecution, had hitherto reserved themselves on the various stages through which the business had already passed, and had taken the present opportunity of delivering their opinions at large upon the whole of the subject, and had then, for the first time, entered into the defence of Mr. Hastings. As this seemed to be the case, he thought it was but justice to those gentlemen, to Mr. Hastings, and to the cause, to hear what they had to say without interrupting them, or anticipating their general argument in favour of Mr. Hastings, by a particular discussion of the question immediately before the House. Those gentlemen had not taken up the question either as to the form of the articles, or the mode of proceeding, but had confined themselves solely to the broad consideration, whether Mr. Hastings was or was not guilty of crimes sufficiently great and glaring to render him deserving of punishment; and this discussion had been handled in a variety of ways by the several gentlemen that had undertaken it, and all of them had gone the length of arguing that there should be a complete and final conclusion to the whole proceeding—an opinion that he was ready to declare his own perfect and entire dissent from; for he felt himself totally at a loss to conceive how it could be reconciled to the honour, the consistence, or the justice of that House, to stop short of sending up the impeachment to that place, where alone it ought to undergo its ultimate discussion.

The noble lord who opened the debate, and the hon. magistrate who followed him, had confined themselves wholly to a collateral question, and not one immediately connected with that before the House, to the merits of Mr. Hastings, which they pleaded as a set-off against his offences. This was a ground which he expected and hoped would have been abandoned, after what had already passed upon that subject, both from Mr. Hastings himself, who had disclaimed any such plea, and from many of the gentlemen who had delivered their opinions in the debates on the several charges. For his own part, such was his opinion of many parts of the charges brought against Mr. Hastings, of their importance and criminality, that he could not conceive, if they were well founded, how the highest and the greatest merits which had ever been alleged in favour of Mr. Hastings, could be set in opposition to them as a plea even against conviction and punishment—much less against inquiry and trial, which were now the objects in question. His learned friend (Mr. Dundas) had very judiciously taken a different ground, and given up that set-off; but still the principles he went on were no less objectionable than those of the noble lord and the hon. alderman: he had treated the subject as if it was deficient of that consequence or magnitude which could entitle it to the judgment of that high and weighty tribunal to which it was proposed to submit it, and had besides endeavoured to oppose the farther progress of the business in that House, by analogous reasonings from the nature of this form of proceeding in Parliament and that of grand juries and other courts. But he could not conceive how any gentleman could possibly consider the charges against Mr. Hastings in any other light than as a very grave, heavy, and serious accusation, such as was supported by evidence at least sufficient to warrant the putting him on his trial, and such as was of magnitude sufficient, if substantiated in proof, to bring down on him very ample punishment.

As to the analogies to other inquests, the learned lord himself, and those who entertained opinions similar to his, had themselves shown how little their analogous reasonings applied; for they all seemed to go upon an idea, that the finding matter sufficient to put the party on his trial was assuming, for a certainty, that there was sufficient matter to convict.

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But this was by no means the case; for it was never supposed or imagined, that exactly the same degree of evidence which was sufficient to warrant an impeachment of that House, must necessarily be sufficient to support and insure a conviction; neither was this the case in the finding of a grand jury: in both cases the final judicature must have proof considerably more substantial than that which the original inquest would have been justifiable in proceeding upon. But it was impossible for that House to govern itself exactly by the rules of a grand jury; for the subjects that were likely to become objects of impeachment, were so different from those with which grand juries were conversant, that no analogy could take place in their modes of proceeding. Besides, if the House of Commons were to take the proceeding of a grand jury as their precedent, and follow it exactly in all instances, it would amount to a complete dereliction of that function which they were then exercising—that of impeachment; a function which had been the bulwark of the constitution, and which had enabled that House to preserve and maintain the freedom of their country, through the several struggles they had made for that purpose. Was that House competent to take deposition and evidence upon oath? It certainly was not; and therefore if it were not to proceed to an impeachment upon any other species of evidence than would justify a grand jury in finding a bill of indictment, it must never impeach at all; for a grand jury could not find it except upon affidavit. Still he admitted that the House ought never to go to such a length as the carrying up of an impeachment, except upon such evidence as would afford a reasonable probability of their being able to make good their charge before the other House; and was there not here, from what had been produced in support of this charge, and from the collateral and indirect matter which had alone been resorted to in defence of that charge, very reasonable grounds for expecting that they should be able to make good the present?

An hon. magistrate had inveighed with great severity on the conduct of gentlemen who, he thought, in support of the charge, had used expressions of too violent and personal a nature to be admitted in the progress of a judicial inquiry. He certainly was of opinion, that there was much illiberality in any attempt to inflame and excite emotions beyond what might naturally be expected to result from a fair and candid development of facts in the minds of those who were the instruments of public justice. He admitted that he once was of opinion, that the language of those who chiefly promoted the present proceeding, was too full of acerbity, and much too passionate and exaggerated; but when he found what the nature of the crimes alleged was, and how strong was the presumption that the allegations were true, he confessed that he could not expect that gentlemen, when reciting what they thought actions of treachery, actions of violence and oppression, and demanding an investigation into those actions, should speak a language different from that which would naturally arise from the contemplation of such actions.

The hon. magistrate had argued, that the honour of the House was not committed to adopt the resolutions of the committee, and had endeavoured to prevent such an impression from falling upon gentlemen as an inducement to their voting for them. But, was there any danger of gentlemen being influenced by such a consideration in the present case? Had the resolutions of the secret committee been a new matter, perhaps there might then have been some room for cautioning the House not to be drawn into too hasty an adoption of them from motives of consistency, because, in such a case, their adoption might possibly be attributed to such motives; but even then such a caution must prove unnecessary; for no member could consider himself bound to support the resolutions of a committee, merely because they were resolutions of a committee. In this instance, the object of the hon. alderman ought to be, to convince such gentlemen individually as had voted for the several charges, that, having done so, yet they would not be inconsistent in now opposing the report; but this argument, he must say, he believed no gentleman would attempt to support; for certainly no gentleman who had supported the charges could, consistently with the principles on which he did so, now oppose the farther progress of the business. But, in fact, he not only considered those gentlemen who voted for the charges individually, but the whole House collectively, as called upon by every motive of honour and consistency, by their regard for the national character as well as their own, to unite and persevere in bringing the matter to a conclusion before the other House.

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The hon. gentleman who had spoken last, and whom every body knew to be most perfectly conversant in the affairs of the East Indies, who had done himself so much honour in every part he had at any time taken in the management of their affairs, and who had been besides in general a strenuous opposer of the measures of Mr. Hastings, had that day made the best defence for him which he had yet heard; but still, upon the very grounds of that defence, Mr. Hastings appeared highly culpable. The principle argument which that hon. gentleman had stated in favour of Mr. Hastings, was, that a great part of those rapacious exactions which he had made in India, arose from the orders he had received from his employers, the East India Directors, who were so elated with the acquisition of the dewanee of Bengal, and the expectations they from thence entertained of becoming the channels of vast wealth into this country, that they gave him directions for such extensive investments as could not be provided by the ordinary resources of the Company, and of course drove him to the necessity of supplying, by rapacity and extortion, the means of fulfilling their injunctions. Taking this to be the fact, it was, he contended, no argument whatsoever to screen Mr. Hastings from punishment; for it went to say, that whatever acts of injustice a servant of the Company might commit, provided that he does it by the orders of his immediate superiors and employers, he should not be amenable to punishment;—a principle which, of all others, that House should be most assiduous to resist, because such a principle, if once established, would entirely overthrow the responsibility of all public officers—even of ministers themselves. But were the fact even thus, the East India Company might entertain too flattering and too sanguine ideas of their situation, and in so doing, would naturally (as they did) give orders to their servants measured by the scale of those ideas; still was Mr. Hastings justifiable in recurring to acts of oppression and tyranny, in order to realize the visionary prospects of his masters? Was it not his duty to undeceive them, and by a proper representation of their affairs excuse himself for the non-performance to its full extent of their commands? He should recapitulate, as shortly as possible, the state of the charges against Mr. Hastings, from which it would appear, how impossible it was for him, or such gentlemen as were of opinion with him, to give him any other vote but one—of concurrence with the motion: though he certainly considered the whole of the charges as originally brought forward, as highly exaggerated in some parts, and as not wholly founded in others; yet there appeared from the evidence which had been produced, that there was in them a great deal of matter of substantial criminality, and sufficiently authenticated to warrant that House in proceeding upon it.

The chief point of this mass of delinquency was all which he could touch upon; nor would he go into the articles at any length, having already delivered his sentiments at large upon such of them as he was not anticipated in by gentlemen who thought as he did. In one part of the charge of Benares, there was great criminality; in that of the princesses of Oude there was still more: and that, indeed, he looked upon as the leading feature in the whole accusation. In the charges concerning Farruckabad and Fyzula Khan, there was also much criminal matter. In all of those there were instances of the most violent acts of injustice, tyranny, and oppression; acts which had never been attempted to be vindicated except on the plea of necessity. What that necessity was, had never been proved; but there was no necessity whatsoever which could excuse such actions as those, attended with such circumstances. He could conceive a state, compelled by the necessity of a sudden invasion, an unprovided army, and an unexpected failure of supplies, to lay violent hands on the property of its subjects; but, then, in doing so, it ought to do it openly, it ought to avow the necessity, it ought to avow the seizure, and it ought, unquestionably, to make provision for a proper compensation as soon as that should become practicable. But was this the principle on which Mr. Hastings went? No; he neither avowed the necessity nor the exaction; he made criminal charges, and under the colour of them he levied heavy and inordinate penalties; seizing that which, if he had a right to take it at all, he would be highly criminal in taking in such a shape, but which having no right to take, the mode of taking it rendered it much more heinous and culpable. He certainly had no right to impose a fine of any sort on the princesses of Oude; for there was not sufficient proof of their

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disaffection or rebellion. And the fine imposed on Cheyt Sing, in a certain degree, partook of a similar guilt, though not to so great an extent; for then the crime was, in his opinion, not so much in the fine itself as the amount of it, and its disproportion to the circumstances of the person who was to pay it, and the offence which he had committed. But this vindication, from one part of the charge, in itself so weak, became, when coupled with other parts, a great aggravation; for, when a person on the one hand commits extortion, and on the other, is guilty of profusion, if he attempts to screen himself under the plea of necessity, for his rapacity, it follows that he is doubly criminal for the offence itself, and for creating the necessity of that offence by his prodigality. And a still higher aggravation arises from the manifest, and, indeed, palpable corruption attending that prodigality; to what else could be attributed the private allowances made to Heyder Beg Khan, the minister of the Nabob Vizier, and the sums paid to the vakeel of Cheyt Sing, when it was remembered that the one led the way to the Treaty of Chunar, and the other to the revolution in Benares?

The hon. gentleman who spoke last, had attempted to excuse all these actions, by showing that Mr. Hastings was not the person who first began the interference of the Company with the native princes, nor the influence which it had obtained in their politics; and that the inconveniences attending the double government of Oude were not to be imputed to him. But, surely to whatever cause that influence might be originally attributed, Mr. Hastings was answerable for the management of it, as long as it was in his hands, and to excuse him on this plea, would be to justify the tyranny by the power; for, though the influence of the Company had given him the power to oppress the neighbouring country, it had not imposed on him the necessity of doing so. The hon. gentleman had attempted to palliate those parts of Mr. Hastings's conduct, by stating, that if he were guilty, he was so in common with the rest of the council; but this, if it were the case, was by no means a sufficient excuse for him, nor could it be a reason with the House for dropping the impeachment; for his having accomplices in his crimes could be no exculpation, and it would be highly derogatory to the honour of that House, if they were to say—"No; we will not bring the delinquent to justice, because there are a number of delinquents besides him." Nor would this be a reason even for impeaching the rest; for it was by no means advisable to multiply examples: the proper way was, to select such as, from their exalted and ostensible situations, were the more likely to become an effectual example. But, it was impossible to justify Mr. Hastings on such a ground as this, even if it were tenable at all; because a considerable part of those enormities with which he was charged, were committed at a distance from his council, and when he was entirely out of the reach of their advice or control.

In the articles of the contracts, there were some glaring instances of breach of orders, and of improvidence and profusion, which, though not of so heinous a nature as those he had before mentioned, were such as called loudly for punishment. But there was another charge which he was astonished to find the gentlemen who defended Mr. Hastings could treat so lightly, as it was one which appeared to him in itself sufficient to justify the impeachment, though it had stood alone, and was of such a nature as, in a peculiar degree, called for the interference of that House. This was the charge of taking presents, which, in every light it could be considered in, whether as a direct breach of the law which appointed him, a positive evidence of corruption, or a degradation of the character of his employers, was a great and heavy accusation; and as to the excuse which had been offered, that he had received those presents for the use of the Company, even that was criminal in a degree. But, for his part, he could not accede to the opinion either that he had received those sums with an intention of applying them to the service of the Company, or that he had actually applied them at all in that way; for, had this been his intention, he would have kept such accounts, and made such immediate communications of them, as should clearly prove that it was so. But, no such accounts were produced, no such communications were made; and there were, besides, circumstances attending some of them, that proved they must have been received with a corrupt intention. As an instance of this, he should mention the present Mr. Hastings had received from Kelleram, which was attended with the most suspicious of all circumstances, namely, that

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this very person was at that time in treaty for a district of land belonging to the Company, and no question could be entertained, but he gave the money in order to obtain a favourable bargain; so that had this been done for the Company, it was a most unjustifiable and impolitic method of managing their concerns; for, in that case, it should have been negociated openly in the nature of a fine, and not privately as a bribe, in which latter light alone it ought to be considered. Upon the whole, the House could no otherwise consult their own honour, the duty which they owed their country, and the ends of public justice, than by sending up the impeachment to the House of Lords.

Mr. *Martin* declared himself a friend to the impeachment after the facts in the several charges had been so fully established. He said, that if any gentleman would move that a retribution should be made to those persons from whom sums of money had been exacted, he would second the motion.

Lord *Mulgrave* said, that as he had voted against the question on every charge, excepting that relative to the presents, he must, for consistency's sake, vote for the worthy alderman's motion.

Mr. *Burgess* said, he did not mean, after so many gentlemen had delivered their sentiments on this subject, to engage the attention of the House with any argument of his own; though he professed himself to be ready at any time to disprove the propositions of the Chancellor of the Exchequer, particularly those relating to state necessity, the proofs of the Begums' rebellion, and the true construction of the Regulating Act; of the latter, he had on a former occasion delivered his decided opinion, to which he would now adhere; as to the others he would only say, that if ever state necessity existed, it did exist in the business of Cheyt Sing and in the tumults in Oude; and if ever there was a positive proof of a fact, there was positive proof that the Begums were in open rebellion. He rose now, merely to lay before the House a most important paper, highly deserving of attention. A noble lord had just told us what were the sentiments of the natives in India towards Mr. Hastings; this paper would prove what were the sentiments of the Europeans. Six months after Mr. Hastings's return to England, the officers of the Bengal army, which consisted of 70,000 men, met together and drew up an address, which they presented to him. He was then a private individual no longer possessed of power, no longer able to bestow favours. They had nothing to hope from his protection, nothing to fear from his displeasure. This address, signed by upwards of 600 of the principal officers of that army, expressive of their approbation of Mr. Hastings's conduct, Mr. Burgess read to the House as part of his speech.

Major *Scott* said:—I rise to offer a few observations upon some things that have fallen in the course of the debate. The Chancellor of the Exchequer has said, that if the necessity for the confiscation of the Begums' treasures were proved, it would be a complete justification. Considering the mass of papers that I have been under the necessity of moving for, it is not at all surprizing that many of them remain to this hour unperused; but if ever there was a point so fully proved, that no man of common sense can entertain a doubt of it, the papers in my hands prove the necessities of the government of Bengal, at the period in which Mr. Hastings authorized the seizure of the Begums' treasures. These papers prove that we had at that time five armies in the field, each many months in arrears, without a probability of those arrears being paid off; and lord Macartney's letter to Mr. Anderson proves the desperate state of our affairs in the Carnatic. An army largely in arrears, no money in the treasury, a French fleet and a French army hourly expected, and the supplies from Bengal, liberal as they were, by no means adequate to their expenses—this, Sir, was our situation in every part of India. The Company's interests sinking in every quarter, and only to be preserved by strong measures exerted with a strong hand. I hope, Sir, I am neither a ruffian nor a robber, but I protest to God, the circumstances were such, that had I been the Governor-general, I think they would have justified me in plundering a Mosque or rifling a Zenana. After having recited what the state of the Company's affairs was, and the papers on your table prove it in its fullest extent, I now assert, that Mr. Hastings never has used, and that he never thought of using the plea of necessity; it would have borne him fully out, but he had another. The article of impeachment states very truly that the Nabob Vizier often wanted to seize his mother's treasure, but was prevented by Mr. Hastings; but in 1781,

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when the Begums had acted in such a manner as to justify Mr. Hastings to his own conscience in withdrawing the Company's guarantee, he did it, and by doing it, he permitted the Nabob to do that which he so long had wanted to do, and the Company's distresses were relieved. That the Begums had afforded assistance to Cheyt Sing, was a fact of the most public notoriety. Mr. Markham has told you, at your bar, that he believed it as fully as he did the existence of the American war; and I do declare upon my honour, that I have conversed with thirty gentlemen, who all assert the same thing, and will depose it at the bar of the other House. The error Mr. Hastings committed in my opinion, was this:—instead of acting upon the universal notoriety of the fact, he wished to make assurance more sure, and affidavits were taken to satisfy, not himself, but the people in England, who had not the same means of information that he had. I therefore repeat, that though Mr. Hastings does not use the plea of necessity, there never was a period in which the necessities of any state were so urgent as when those treasures were seized; and I now pledge my credit in this House, and to my country it will come out in proof, that we owe the preservation of India in 1782 to the seizure of the Begums treasures.

I some time ago, moved for copies of any complaints that might have been sent home against Mr. Hastings, from Fyzulla Cawn, Muzuffer Jung, the Nabob Vizier, or any of his subjects, and the return to this order was, two letters from the former, saying, that Mr. Hastings's kindness to them had been very great, and expressing a hope that his successor would be equally kind to them. The answer from the Nabob was, that he had sent an agent to England, to represent to the Directors, that he hoped there never would be any deviation from the agreement his dearest friend, Mr. Hastings, had concluded with him. Yet these are the men he is accused of treating so ill! An hon. gentleman has said, that if any person would make a motion to afford retribution to those who have been injured by Mr. Hastings, he would second the motion. If I thought as that hon. gentleman does, I would wait for no man to make the motion, I would make it myself. I would stand up for the dignity and honour of the House of Commons, which will become the scoff and scorn of Europe, if it pronounces certain acts of Mr. Hastings to be wrong, if it impeaches him for those acts, and basely and meanly benefits by his misdeeds. Mr. Hastings is accused, in the charges before the House, of accumulating, for the East India Company, nine millions and a half sterling by acts of oppression and injustice. A right hon. gentleman, (Mr. Dundas) in his first Indian speech made in this House, when I sat in the gallery, accused the Directors of finding fault with their servants for the means they took to procure money, but, he added, they were always very ready to take the money. He opened his Indian budget two days ago, and I confess it was a proud day; but the right hon. gentleman took credit for every sum that Mr. Hastings had acquired. If these charges are true, will a British House of Commons permit Cheyt Sing, who is styled a prince, to be a fugitive through Hindostan? Why do they not restore him, and pay him the 123 lacks we have taken from him? We never could have got the 130 lacks the Nabob Vizier owed us in 1781, except by the seizure of the Begum's treasures—so with the Nabob of Bengal, the king Shah Allum, the sale of Corah and Allahabad, and the presents. All these acts have procured for the Company nine millions and a half sterling; I think them all justifiable, politic, and wise; but, if I thought otherwise, I should conceive myself as infamous as the Corregidor in Gil Blas, who punished the robber for stealing a bag of a thousand doubloons, but instead of restoring the money to its right owner, appropriated it to his own use. The Chancellor of the Exchequer has said, that the present made by Kulhan Sing and Kallaum to Mr. Hastings, bears the strongest marks of corruption. Fortunately, there are papers upon the table which fully explain this transaction. If Mr. Hastings had let the lands to these men at a lower rate, than they had formerly been let out to farm by the provincial councils, there might have been grounds to suspect him of corruption; or if, after letting them at a higher rate, he had suffered large balances to remain, and had not exerted himself to recover those balances, there might have been ground also to suspect him of corruption. But you have it in evidence, that the collections under these men exceeded the collections under the provincial councils, by 126*l.* in three years. You have it also in evidence, that Mr. Hastings, so far from interfering in favour of these men, en-

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joined Mr. Anderson to proceed against them with the utmost strictness. You have it also in evidence that Mr. Hastings told Mr. Anderson he had accepted the money from them, not on his own, but upon the Company's account. I, therefore, repeat, that you have no ground whatever to suspect Mr. Hastings of corruption; nor have you any evidence at all of his receiving money, except what he himself has been eager to lay before you. And you have it also in evidence, that every rupee was faithfully appropriated to the public service; nor can I, on this occasion, attempt to remind the House what a right hon. gentleman (Mr. Dundas) once said, that God knew how or where Mr. Hastings got money during the war, but he did contrive to get it, and by so doing he had saved India.

The House divided on the question, That the said Articles be now read a second time, article by article.

Tellers.

Yeas	Lord Maitland Mr. M. A. Taylor	175
Noes	Mr. Ald. Townshend Mr. Scot of West Love	89

The first Article was read, and agreed to. After which the further consideration of the report was adjourned till to-morrow.

The Commons vote an Impeachment against Mr. Hastings.] May. 10. The House proceeded to take the report into further consideration. After the Articles of Impeachment were all read, amended, and agreed to, Mr. Burke moved, "That the said W. Hastings, esq. be impeached of High Crimes and Misdemeanors."

Mr. *Sumner* expressed his astonishment, that a gentleman of such high character, acknowledged ability, and received integrity as Mr. Hastings, should be the subject of an impeachment. He said, he had been bred up in the habit of regarding that gentleman as a model of perfection, and had been taught by those who for twenty years had run a race with Mr. Hastings in public life, to think that if he could imitate any thing of his great example, he could not fail to make a shining figure in any station to which, by the exercise of his talents, or by the chance of events, he might be raised. He described Mr. Hastings as a man educated in the idea of filling a place in private life only, but who had, by unforeseen accidents, been exalted to a rank of great dignity and singular power: that, however, his conduct in that dangerous and tempting situation might have rendered him the object of a prosecution carried on in that House, with uncommon virulence, (he had almost said with unexampled malice) he was regarded by the world in general as a politician possessed of more than ordinary wisdom, and as a statesman eminent for his activity and exertion. The French, to whom Mr. Hastings had certainly, in his public conduct, evinced no partiality, idolized him, and extolled his actions as more than human. Indeed, there was scarcely a quarter of the globe, or any place in any district of the divisions of the world, which did not join in his praise and speak of him with rapture, excepting only that House, where he had been debased by joking phrases, run down by ribaldry, and loaded with invective, fit only to be applied to the most atrocious criminal after conviction, and by no means worthy to be heard in a British senate engaged in an inquiry, whether there was matter of charge or not against a gentleman, who had lately stood in a situation, from its eminence alone, entitled to respect and veneration. Mr. Sumner after an abundance of praise of Mr. Hastings, of deprecation of his prosecution, and of assertion of his thorough conviction of his complete innocence, concluded with expressing his concurrence in the impeachment, as the only means of rescuing Mr. Hastings from the calumny with which his name was at present loaded.

Major *Scott* said:—I have invariably and conscientiously voted against every article, and as I now mean most heartily to vote for the impeachment, I hope the House will permit me to state very shortly what are my reasons for so doing. I opposed the articles from a complete conviction that they are founded in ignorance and misrepresentation; and, in fact, the whole of the charges amount to this,—that Mr. Hastings, by oppression, by injustice and corruption, has obtained for the Company nine millions and a half sterling. I think, that all the acts complained of were wise, politic, and just; but were I of a contrary opinion, could I, as an honest man, vote for the impeachment of Mr. Hastings, while I basely and infamously benefited by his misdeeds? I could not. And how gentlemen who condemn these acts suffer a day to pass without moving retribution to the sufferers, is to me incomprehensible. The articles, however,

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have been received by the House, and it is asserted, that he has been influenced by corrupt motives in various instances. This being the case, I cheerfully vote for the cause being transferred to that tribunal, where I know the falsity of the charge must be proved by incontrovertible evidence; and it is upon this ground I give my vote. I agree to the impeachment, as the means by which the honour of Mr. Hastings will be fully cleared; at the same time I, with all mankind, express my wonder, that after all the calamities this country has sustained, after all the losses she has suffered from the folly or mismanagement of her rulers, the man allowed by all to have been eminently successful, should be the object of prosecution by the Commons of Great Britain in Parliament assembled.

Mr. *Burgess* rejoiced to think he had throughout defended the cause of a great and injured man, and had opposed proceedings which he should ever reprobate as unjust, impolitic, interested and malicious. Other gentlemen might, if they thought proper, vote to-day for the impeachment. He could not follow their example. Consistently with the dictates of his conscience, and with his own personal honour, he must oppose the prosecution to its last stage. If a division should take place, he would vote against it; if not, he would instantly quit the House, to avoid being implicated in the guilt and disgrace of the sentence about to be pronounced.

The question was carried.

Mr. *Montague* said, that he rose to make a motion, which could not, he conceived, meet with resistance after what had passed, as it was founded in principles of humanity and justice. Mr. Montague then moved, "That Mr. Burke do go to the Lords, and, at their bar, in the name of the House of Commons, and of all the Commons of Great Britain, do impeach Warren Hastings, esquire, late Governor-general of Bengal, of High Crimes and Misdemeanors; and acquaint the Lords, that this House will, with all convenient speed, exhibit Articles against him, and make good the same."

The majority of the House immediately attended Mr. Burke to the bar of the House of Peers, where Mr. Burke solemnly impeached Mr. Hastings in the form above recited.

May 11. Mr. Burke reported to the House, that he had been to the bar of the House of Lords in obedience to the commands of the House, and there, in the name of the House of Commons, and of all the Commons of Great Britain, impeached Warren Hastings, esq. of High Crimes and Misdemeanors. Mr. Burke proposed Messrs. Wallis and Troward, as the Solicitors on the part of the House. On the 14th, Mr. Burke carried the Articles of Impeachment up to the Lords.

Debate on Words spoken by Mr. Courtenay, reflecting on Lord Hood.] May 14. Lord *Hood* rose and said, that he felt himself under the necessity of calling the attention of the House to a matter of personal reflection, and therefore the sooner it was cleared up the better. An hon. gentleman (Mr. Courtenay) had, on the preceding Wednesday, used an expression in debate, which was considered as an insinuation that he had not done his duty in the action of the 12th of April, 1782. If by saying that he had been a 'spectator' of that action, the hon. gentleman aimed at any such meaning, he should be glad that he would explain himself, because in such a case it was not more an insinuation against him than against the noble lord who commanded in chief; since, if the fact were, that he had not done his duty, the noble lord was bound to have brought him to a court-martial.

Sir James Erskine rose, but was interrupted by a member (we believe Mr. Grosvenor) who spoke to order, and said that he had witnessed so many of the disagreeable discussions to which such sort of conversation led, that he hoped the matter would not be taken up by any member except the noble lord and the hon. gentleman who had made use of the expressions alluded to.

Sir *James Erskine* said, that he meant to speak to order. He then declared his extreme surprise at hearing his hon. friend called upon to give an explanation of an expression, which he had amply and completely explained the very day on which he had made use of it.

Mr. *Windham* contended, that it was disorderly and contrary to all regular practice to call upon an hon. gentleman to explain an expression which he had let fall in the course of debate, four or five days after that debate had taken place; but, in this case, it was singularly so, because his hon. friend had, directly, upon

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his being called to order, done away the possibility of its being supposed, that he meant to convey any insinuation to the prejudice of the noble lord, by declaring in express terms, that he had no such intention. He confessed that, when his hon. friend had let fall the expression, it struck his ear as meant to convey an unpleasant insinuation, and therefore he had felt great pleasure in hearing his hon. friend disavow an intention of making any insinuation whatever to the prejudice of the noble lord's gallant conduct. But he could give another proof, that his hon. friend had been sincere in his disavowal of any such intention; and that was, his expression of the utmost anxiety to him, in private, on the day of the debate, that such a construction should have been put upon his words, as he saw had been entertained by the other side of the House.

The *Speaker* stated the order and usage of proceeding when any improper or offensive words were spoken in the course of debate to be, for those words to be immediately taken down, and a proceeding had upon them before any other business or question was debated; but, it was irregular, when the words had not been complained of at the time, to enter into a discussion of any expression which had fallen in the course of debate, three or four days afterwards.

Mr. *Burke* begged leave to assure the House, that his hon. friend (Mr. Courtenay) had, on the very day of the debate, when the expression in question escaped him, declared to him, that it was an accidental lapse of speech, into which he had been betrayed by hurry; and that instead of 'spectator' of the action of lord Rodney, he meant to have used the word 'participator.' No man could appear more hurt than his hon. friend, when he found the construction which a part of the House had put upon it. Indeed, it was impossible that his hon. friend, whose wit was not greater than his justice, nor more prominent than his good, humane, and even temper, could have intended to throw out any thing injurious to the character of the noble lord, to whose exertions the country stood so highly indebted, and whose merit that House had recognized in a manner the most flattering to honest pride. Mr. Burke spoke of lord Hood's behaviour on the 12th of April, 1782, declaring, that it dignified the title which he wore; and repeated his assertion relative to Mr. Courtenay's declaration to him, that he had not meant to throw out any imputation prejudicial to the noble lord's character.

The member who had called sir James Erskine to order, rose again, and said, that if Mr. Courtenay, with whom he had the pleasure to be acquainted, and whom he knew to be a man of honour, did not feel it to be necessary to add any thing more upon the subject, he thought that the conversation ought not to continue.

Mr. *Pitt* observed, that he should take care not to be disorderly in what he had to say; for, he would conclude with a motion; and that a motion which, if the hon. gentleman had any intention of casting an aspersion on the character of the noble lord, would give him an opportunity of doing it fairly and manfully, and not by indirect and covert insinuation. He admitted, that the general indignation excited in all parts of the House a few nights before, at the suspicion that an imputation had been hinted to the prejudice of the noble lord, who so justly stood in the highest rank of public esteem and gratitude, and against whom any imputation would be a reflection on that House, which had made him the object of a public vote of thanks, and on his Majesty who had bestowed upon him a distinguished mark of his favour, for his eminent and memorable services, most certainly drew from the hon. gentleman some sort of explanation. But those who knew that hon. gentleman, would know that it was no very extraordinary supposition to entertain, that this explanation, though in terms it might appear an apology, might in fact be meant rather as an aggravation than an extenuation of the injury. It appeared, however, from the assertion of two friends of the hon. gentleman, that he himself had declared to them, that he was sorry he had used the expression. Why not then say in public, what he had already declared in private? The hon. gentleman would have an opportunity, now, in consequence of his motion, of saying for once, whether he was serious or not; and if he had nothing to state to substantiate an insinuation against the noble lord, at least to enter into a retraction of that which he was supposed, and which he had supposed himself to have made. Mr. Pitt now moved, That the Resolution of the House of the 22d of May, 1782, thanking sir George Rodney for his gallant conduct in the late most brilliant and decisive victory over the French fleet in the West Indies,

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and also the Resolution, thanking Sir Samuel Hood, &c. for their bravery and gallant conduct on the above most glorious occasion. Mr. Pitt next moved, That the said Resolutions be printed in the votes of this day.

Mr. *Fox* said, that he had no objection to the motions; having, on every occasion, notwithstanding any little political differences of opinion which might prevail between the noble lord and himself, uniformly expressed his sincere satisfaction in having been himself happily the person to move the vote of thanks in that House, when he had the honour to stand in a particular situation. He knew those thanks to have been highly merited, and so far from feeling any objection to the proposed motions, they would, in his opinion, do good, by refreshing the minds of all ranks of people with the gallantry of the officers, whose names were inserted in the vote of thanks, and the very great obligations which the country owed them. With regard to his hon. friend, however, he could not help thinking that he had been rather hardly called upon. For what was the real fact? His hon. friend had let fall an expression to which a meaning had been annexed foreign from that which his hon. friend intended it to convey. The instant his hon. friend found the construction that had been put upon it, he rises voluntarily, and in a manner that must have satisfied every man who heard him, declared, that he had not intended to insinuate any thing derogatory to the reputation, or professional conduct of the noble lord in question; and yet he was called upon at four days distance, to explain his meaning over again. He might as well be called upon the next day to repeat his explanation a third time, the day after a fourth, and so on to the end of the session.

Lord *Hood* said, the fact was, that he had not heard the expression himself, as he happened to be moving from his seat when the word was used; nor was it till the next day that he knew the nature of the sort of attack which had been made upon him. This was the first day upon which he had found an opportunity of saying the little he had thought it due to himself to say upon the occasion. Had he known that the hon. gentleman had declared that he did not mean any insinuation against his character, he should have been fully satisfied; but the House would not think that he had been unnecessarily scrupulous, when they considered, that an officer's character was all which he had to carry him through the world.

The motion was agreed to *nem. con.*

May 13.] Mr. *Courtenay* said, that he rose, unapplied to and unsolicited, to make some short remarks upon what had been the subject of a debate on the preceding day. He rose to do that justice to the professional character of the noble lord (Hood) which he was precluded from doing, by the acrimonious, or rather unhandsome manner in which he had been solicited to do so by the Chancellor of the Exchequer. However inclined he might have been, the style and manner of the right hon. gentleman made his compliance at the moment incompatible with any sense of propriety or decorum, and inconsistent with any sentiment of spirit or honour. Sanctioned by the opinion of his friends on the preceding day, he had remained silent, and resisted the exhortations of the right hon. gentleman, who, with great professions of cordiality, had advised him to repeat an explanation which he had already made, and which was therefore unnecessary; and at the same time the right hon. gentleman, with his usual felicity of expression, and insidiousness of intention, prevented him from complying with a request, urged with affected candour and studied plausibility. Sanctioned by the opinion of those friends, and at their desire, he rose to do what at his coming into the House he had not the least conception of doing—to repeat the explanation which he had given on Wednesday last, that he had not the least intention to throw any reflection on the noble lord. The expression was unintentional, and had dropped in the hurry of debate. It would have been absurd, ridiculous, and foolish, in him to have hinted any insinuation against the character of the noble lord, who stood deservedly high in his profession, in the estimation of his country, and who had received the thanks of the representatives of the people for his services.

Debate in the Commons on the Charges against Mr. Hastings—Misdemeanors in Oude.] May 14. The House having resolved itself into a committee of the whole House on the charges against Warren Hastings, esq.

Mr. *Burke* expressed his hopes that he should not have occasion to detain the House long, as they had at length arrived

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at the important period which rendered it a matter of common opinion, that wherever a charge upon the face of it wore the features of criminality, it would be wiser to submit it, when matured by the secret committee in the shape of an article of impeachment, to the investigation and decision of the House of Lords, than to spend much of the time of that committee in inquiring minutely concerning the particular facts contained in it. He had last week impeached Warren Hastings, esq. of high crimes and misdemeanors, and that day he had delivered at the bar of the House of Lords the articles of impeachment—a circumstance which did that House the highest credit, and at the same time rendered it the less necessary for him to trespass much upon the patience of the House on the present extremely long charge, as it stood upon their table. He should, however, merely state the principal points of it in a summary way, to show that it contained criminal matters, and then move the general question upon the whole. With regard to several of these facts Mr. Hastings had himself saved him and the committee much time and trouble by admitting them in his defence, and particularly all the charge contained relative to the distress of the province of Oude and the confusion of the Nabob Vizier's affairs: he should, therefore, accuse the said Warren Hastings with having been the cause of that decay, distress, and confusion; he should charge it upon the British Government of the province exercised under the direction of the said Warren Hastings, and prove, that it was owing to a military force being established in the province unconnected with the government, and not subject to the control of the Nabob, and to the appointment of the British officers to collect the revenues; he should charge the said Warren Hastings with making treaties for the professed purpose of remedying evils, but by them aggravating the same; with employing secret agents to counteract all good measures; with making contradictory charges against the British resident at Oude; with ordering a native collector to be murdered; with afterwards letting a large territory to farm to Almas Ali Khan for six years; with laying snares and traps to deceive and ensnare the British resident; with pretending to pay the Nabob's debts, which were never paid, and with an infinite variety of other criminal facts, which Mr. Burke read from a paper on which he had extracted the great outlines of the charge. After going through the list, Mr. Burke observed, that he thought it necessary to say thus much out of respect to the committee, and that he had avoided urging more matter in order to accommodate himself to the season, the wishes of gentlemen on all sides, and the propriety of the particular case. He now moved the usual resolution, "That the sixteenth article contained matters of charge of high crimes and misdemeanors against Warren Hastings, esq."

Major *Scott* said, that he did not mean to divide the committee upon the present charge, or to detain them more than four or five minutes. In fact, as the friend of Mr. Hastings, he should rather wish that the charge might go up to the Lords, because he was conscious that where criminality was alleged, infinite merit would appear; but as a member of the British House of Commons, he considered it his duty to tell gentlemen, that he held a letter in his hand which so clearly and pointedly explained the cause of all the distresses that had been felt in Oude, that he should hold himself culpable if he did not communicate it to them. The letter, it was true, was before the House, but he believed that it had been perused by very few indeed of those who had voted for the impeachment of Mr. Hastings. The major said, he joined issue with the right hon. gentleman in all he had said as to the distresses of Oude; but he contended, that all these distresses were occasioned by a system which Mr. Hastings had not only opposed on its establishment in 1775, but had actually prophetically foretold, at the time the measure was adopted by general Clavering, colonel Monson, and Mr. Francis, in opposition to the opinion of Mr. Hastings. The major here read extracts from Mr. Bristow's letter, dated Lucknow, January 22, 1777, and then concluded thus: I have read this letter, to justify myself to the House for opposing with a negative only so nonsensical a charge as that now before you. We agree as to the distress of Oude, but the right hon. gentleman attributes that distress to Mr. Hastings; I, on the contrary, who have been in Oude myself, who have conversed with almost every man who has served in that country, and who have studied the subject, know that Mr. Hastings foretold the mischievous consequences

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of the system which his colleagues had established, and that he alone has the credit of remedying those evils which they occasioned. Oude is a country which has little trade and no mines; yet it appears that since the 1st of September 1773, the Company has received above 14 millions sterling from the Vizier; of this sum the Company has drawn from the country 8½ millions sterling, and since 1773, fifty-two gentlemen who have been employed in Oude, have returned with fortunes to Great Britain; I suppose upon an average, that they have brought home 25,000*l.* each; some may have brought home more; many, to my knowledge, have returned with much less. This will make the whole amount of specie extracted from Oude, including the sums sent to Calcutta for the purchase of European exports, at least ten millions sterling. Is there a man of common sense, who seriously considers this account, that can doubt a moment as to the causes of the distress which has been sustained in Oude? I therefore repeat, that on Mr. Hastings's account I rejoice that a charge so completely nonsensical has passed; but as a member of parliament I tell this committee, that they are about to vote a charge which, if they gave themselves the trouble to inquire into, they would find, is so far from having any foundation in fact, that Mr. Hastings is entitled to infinite merit from rescuing the Nabob Vizier from the distresses in which he was involved by the majority of the supreme council.

Mr. *Francis* contended, that they did not charge Mr. Hastings with being the author of the distress and confusion which prevailed in the province of Oude previous to his having the direction of its government, but while the direction of it was completely in his power. Mr. Hastings had truly said, that colonel Monson died on the 28th of September 1786, and from that period only he was accountable for any act of the government of Bengal: that was precisely the fact, and upon the events which followed in Oude from that date to the day of Mr. Hastings's quitting the government of Bengal, were they and Mr. Hastings at issue.

Mr. *Burke* said, that whether the charge was nonsensical or not, whether it was founded in folly or fraught with wisdom, was not for them, but for the House of Lords to determine: that tribunal would, doubtless, examine with impartiality, investigate patiently, and decide wisely and justly. It was his business to substantiate facts by evidence, and to prove all that he should charge. With regard to Mr. Bristow's letter, he had read it attentively, and he relied a good deal upon much of its contents: with respect to the fortunes made in Oude, unless the making of those fortunes should be found to involve in it something of criminality, he should not meddle with them: if it should be found that it did, he should in that case most undoubtedly interfere; and as to some persons having made great, and others small fortunes, if it should turn out that any of the persons of the latter description were highly criminal, it would be matter of regret with him to know that their conviction could scarcely be followed with any other punishment than imprisonment.

Mr. *Dempster* declared, that Mr. Hastings appeared to him so far from being the author of the distresses in Oude, that he thought it unworthy of that House to make it a matter of impeachable charge against him.

The motion was carried without a division.

Debate in the Lords concerning the Votes of Scotch Peers created British Peers.] May 18. The Earl of *Hopetoun* rose, and desired that the resolution of that House of January 1708-9 might be read. The clerk read it accordingly as follows: "That at any election of the Sixteen Peers of Scotland to represent the Scotch Peerage in the British Parliament, or of any one or more of them, no Scotch Peer who has been created a British Peer by patent since the Union shall be entitled to vote." The earl rose again, and observed that the subject on which he had taken the liberty of troubling their lordships, lay in a very narrow compass. It was clear, from the resolution just read, that the matter had been taken into consideration early after the articles of union between the two kingdoms were settled, and it appeared that it had been very deliberately considered and discussed, before the resolution was put upon the Journals. That resolution had remained unquestioned as to its propriety and justice ever since, nor had any Scotch peer, in the circumstances described, which were those of having been created a British peer by patent, attempted to vote for any of the sixteen peers returned to represent the

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peerage of Scotland in parliament till the last election; when two noble dukes, who both possessed British baronies, voted for the two peers, vacancies for whose seats had been made, in consequence of a late determination of that House. He imputed no blame whatever to the two noble dukes in question, but as he conceived their lordships meant that their resolutions should be effectual, and not remain waste paper, he should move, "That a copy of the said resolution be transmitted to the Lord Registrar of Scotland, as a rule for his future proceeding in cases of election."

Lord *Douglas* (Duke of Queensberry) remarked, that as the motion went materially to affect his rights, he hoped that the House would not precipitately decide a question of such a nature, but would suffer him to be heard by his counsel.

Lord *Osborne* said, that the noble duke appeared to mistake the nature of the motion altogether. It was not a question involving in it considerations of private right, but a plain and simple question, whether that House meant to abide by its resolutions or not. The resolution of 1708-9, was, in his opinion, a clear well-founded maxim, since as the sixteen peers represented the peerage of Scotland, who were in fact no otherwise represented, Scotch peers created British peers could have no claim to vote, as they sat in parliament in their own right, and had no claim whatever to any part of the compensation made by the acts of union to those, who, having given up their personal right to sit, could only sit virtually and by representation.

The *Lord Chancellor* earnestly exhorted their lordships to be cautious how they proceeded precipitately to decide a question of much greater importance, than it might, upon the first blush of it, appear to be. He stated, that a resolution of either House of Parliament, however unanimously carried, did not constitute law. Nothing amounted to, or made law, but what had passed both Houses legislatively, and had received the assent of the Crown in the form of an act of parliament. The House were now called upon in their judicial capacity to re-deliver a judgment that they had formerly delivered. There was no new case before the House, and it was diametrically contrary to the practice of every, even the lowest court of justice in the kingdom, to re-deliver a judgment, unless in consequence of some new case, that made some re-delivery necessary. As a proof how little the resolutions of the House were to be considered as equal to law, he stated that, on the 20th December, 1711, that House passed a resolution declaring two noble Scotch dukes, who had been created British peers, incapable of sitting in that House as British peers. He reasoned upon the injustice of these two resolutions in proportion to their different effects and operations. The first took away the votes of the noble dukes as Scotch peers, and the other deprived them of their seats as British peers. The resolution of 1711 was, undoubtedly, a very great hardship, and it had lately been done away; but how? Not by resolution, but by an act of parliament. In like manner, if, upon mature consideration and deliberate discussion, it should be thought right to make the resolution of 1708-9 effectual, let it be done by due course of parliamentary proceeding; let a bill be brought in, and pass through its regular stages, but by no means let the House, acting judicially, decide a matter that involved in it the private rights of individuals. Whenever the question, whether the right of a Scotch peer, who had been created a British peer by patent, to vote at the election of Scotch peers to serve in Parliament came to be finally decided, there were other important considerations to be decided at the same time. For instance, suppose a Scotch peer was made a bishop; did he, in that case, lose his right to vote at an election of any of the sixteen peers? When a Scotch peer was created a British peer by patent, why ought his sons to be deemed ineligible to sit in the other House? Another consideration was, what was the nature of the office of Lord Registrar? Was it purely judicial, or purely ministerial; or was it of a mixed nature? as he took it, the Lord Registrar was to record the decisions of the remnants of the Scotch parliament, the Lords of Council, and the Lords of Session; to authenticate certificates of their proceedings, and at an election to take by his clerks the lists of the lords who voted. He had some time before seen the outlines of a bill for the better regulating the election of the peers of Scotland; and he could wish to see some such bill brought forward. He could not help approving very much of their electing a Præces of their own number to preside at their meetings instead of the Lord Clerk Registrar. In short, he was decidedly of opinion that there was a variety of matter

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which stood much in need of regulation by an act of parliament.

The Earl of *Hopetoun* said, that the object of the motion was to enforce the resolution of the House, which their lordships certainly meant should be the rule of conduct at every future election. It had been obeyed till the late election, when the votes of two noble dukes, who had been created British barons, had been tendered and taken in the face of the resolution. He denied that it at all intruded upon the private rights of those noble dukes; it left their rights as entire as they were before, and pointed out to them, that if they thought themselves injured, they must apply to that House for a remedy.

Earl *Stanhope* said, that the learned lord's arguments had been extremely plausible and fallacious. The learned lord had declared the right of voting for representatives in Parliament to be private right. The reverse was the fact. It was a public right, vested in an individual as a trust, to be exercised by him for the benefit of the community. In support of this doctrine he quoted the authority of sir George Savile, a man of sound judgment, great knowledge, profound sagacity, and unimpeachable virtue and integrity. Sir George used to reason thus: if the right of voting at an election were a private right, any individual possessing it might publicly sell it, as he might legally dispose of any other part of his private property. But the fact is otherwise, it is a public right, vested in him as a trustee, and he is liable to heavy penalties if he sells it. That was the clear and undoubted definition of the right of voting. With regard to the present motion and the resolution of 1708-9, neither of them altered the right of the noble dukes in question; they only pointed where they should come for a remedy, if they thought themselves aggrieved. To illustrate his meaning, he stated the case of the last Bedfordshire election, where Mr. St. John was returned, and lord Ongley was a petitioner against a false return. On that occasion, there were two petitions, one against the return, and another upon the merits of the election. In the arguments urged, on considering the case, a distinction had been drawn between the possession and the seat, and it had been agreed, that lord Ongley was entitled to the return. Upon inquiring into the merits of the election afterwards, the committee re-seated Mr. St. John. In like manner the present motion concluded upon the possession, but did not decide the seat. The learned lord dared not meet him on the question of law, for there he knew the argument was so strong, that no reasoning could shake it. The noble earl declared himself a strenuous advocate for the motion.

Lord *Sydney* repeated several points that the Lord Chancellor had touched upon, and urged additional arguments to enforçe them; after which, he took notice, that as their lordships Journals furnished no precedent for such a measure, recourse had been had to the other House, in order to find one. He had, he said, spent a great part of his life in that assembly, consequently he was no stranger to its proceedings; but he defied any noble lord to prove that the House of Commons in any one of their election decisions ever came to so strange a resolution as to send down to the returning officer, that they had resolved that such a specific principle ought to govern the election of any borough or town in future. He denied that the doctrine stated by the noble earl who spoke last, had been the opinion of sir George Savile, with whom he had always lived on terms of the strictest intimacy.

Lord *Kinnaird* said, that he should not have presumed to offer his sentiments so recently after having had a seat in that House, but that he trusted the peculiarity of the question, which so materially affected the rights of those whom he had the honour to represent as well as of himself individually, would plead his apology, and would also secure to him that indulgence for which he should have so much occasion. The motion which their lordships were called upon to agree to, seemed to him confined within very narrow limits, as its obvious purport and intent was, to give full effect, in the first instance, to a solemn determination and resolution of that House, as a construction of law, and which construction had been put upon that law within a few months after the different acts relative thereto had passed that House. In objection to this motion it had been stated, that it would not become the solemnity of proceedings usual to that House, suddenly to decide upon the rights of individuals without having all the parties before them, which agreeing to this motion would certainly by an indirect mode do. That no precedent

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whatever could be shown to this House of its ever having adopted such a resolution, nor did there now appear any evidence whatsoever of the necessity of creating such a precedent.

To the first objection he should answer, that by adopting this motion the House would only do that which it became their dignity to do, by giving that effect and consequence to a solemn construction of the existing statutes by the highest court of judicature, and which the peculiar construction of the office of Lord Clerk Registrar rendered dubious and uncertain. He perfectly agreed with the learned lord, that a resolution of that House would not constitute or make a law; but he could not help believing that a solemn construction of the existing statutes by the only court of judicature before which the subject could be agitated, and such construction adopted by the very persons, many of whom had been themselves framers of the statutes, entitled him to assert that to be law, which otherwise it might have been possible to have entertained doubts of.

The history of mankind had not furnished their ancestors with any example of the union of two countries circumstanced as England and Scotland were in the year 1706, by which the respective rights and franchises of the individuals of Scotland were to be finally settled and arranged, though exceedingly dissimilar to those of the subjects of the country with which Scotland was to become united; and therefore it was not surprising that some of the terms of the Treaty might be liable to misinterpretation, and particularly those which related to the Peerage. An elective peerage was a thing perfectly novel in its nature, and though much praise is due to the accuracy with which this statute of the 6th of queen Anne is drawn up, yet it is not very extraordinary that the first election in 1708 should have given birth to a great variety of questions relative to the mode of constructing the acts regulating the manner of elections. Accordingly, on that occasion a petition was presented to that House, complaining of a great variety of irregularities; the House, anxious to preclude the possibility of future cavil and doubt respecting the true intent and meaning of the Treaty, and of the different acts on that subject, adopted a mode the most suited to its own dignity and the solemnity of the proceeding, and the best calculated to effect the object it had in view. A string of abstract questions were stated to the House, arising out of the circumstances which had happened at the election, and counsel having been heard thereon, it came to solemn resolutions on each, and after having so done, ordered a committee to report as to the number of votes for each candidate, according to the applications of those resolutions: that which their lordships had heard read that day was one of them, and was the only one which had been attempted to be infringed, although it had been held and considered completely as law for near fourscore years; their lordships therefore could not be offended with him for affirming that such was the law, when he was sanctioned by the weight of their own authority and the acquiescence of all those who were interested for 79 years. He could not therefore admit, that the interests of the two noble persons to whom it was reserved to discover that these solemn resolutions of their lordships were founded on a misconstruction of law, were now before them. He must affirm, that he thought that matter was already settled, and the only object of this motion was, to prevent these noble persons from adopting a mode of making their claim, which was injurious to those who thought their rights protected by this resolution. He hoped their lordships would not hesitate to adopt the motion, and thereby give that effect to their own resolution.

The Earl of *Denbigh* said, that the whole of the question appeared to him to be much misunderstood; that the case did not stand upon a resolution, but was still stronger; for instead of a single resolution, it was now the law of parliament, the House having done an act subsequent to the resolution of 1708-9, and ordered the clerk of the parliament at the bar of the House to erase the name of the marquis of Lothian from the return of the Scotch peers, and to insert the name of the marquis of Annandale. The earl expatiated upon that fact, contending that it materially altered the nature of the case. He also gave the history of the resolutions of the Scotch Parliament that had been alluded to, and mentioned that the Lords and Commons both sat in one House, and that of course the question that had been there carried, that no British peer, either then or hereafter, should vote, was a double and a compound question. Had it been divided he did not conceive it would have been

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carried. With regard to the rights of the noble dukes, they were already decided upon; but it ought to be remembered, that the noble duke who had talked of being heard by his counsel was no longer a duke in that House; he was only baron Douglas. At a dance, a ball, a dinner, or fête, either in his own house, or elsewhere, he was duke of Queensberry, but within those walls he was only lord Douglas. He had given up his pretensions to any higher title, and he had done wisely—he had gotten a better thing for it.

Viscount *Stormont* combated the arguments of the Lord Chancellor and lord Sydney, and said, that the learned lord had thought proper to oppose a resolution of the House, that had been originally carried without deliberation, and had been since condemned and done away by act of parliament, to a resolution that had been preceded by ample deliberation and very copious discussion, and which, till lately, had never been called in question. [The Lord Chancellor said from the woolsack, "both resolutions were carried by the same men."] Viscount Stormont denied that such had been the fact. He recapitulated the historical facts of those times, and relied upon them, as incontrovertible evidence of the truth of his argument. With regard to the resolution of 1708-9, it had been acquiesced in for near eighty years, nor had any clerk, till in a late instance, dared to take any votes declared by that resolution to be improper. It became therefore highly necessary that the House should enforce the resolution by sending a copy of it to the Lord Registrar of Scotland. He owned that he was a little astonished to have heard it said that there was no precedent for that House sending any one of its resolutions to a returning officer. Such a declaration must have been owing to an accidental lapse of memory; for surely it could not have been forgotten, that so lately as 1762, several persons laid claim to Scotch peerages, and attempted to vote at the election of sixteen peers; insomuch that their lordships took notice of it, and entered into a string of resolutions upon the subject. He had one of them in his pocket, which he would read to the House. He then read the words of a resolution stating, "That whereas William Alexander claims to vote for the election of Scotch peers under the title of earl of Stirling, resolved, that no person, calling himself a Scotch peer, shall be allowed to vote at an election of Scotch peers, unless his pretensions to the peerage shall have been previously made out to the satisfaction of this House;" and after several more of a similar tendency respecting different claimants of Scotch peerages, there followed a resolution, that copies of all the preceding resolutions be transmitted to the Lord Registrar of Scotland.

Lord *Douglas* (Duke of Queensberry) admitted, if the resolution of 1708-9 was good for any thing, he well knew that he had no ground to stand upon; but he should still contend that a resolution of that House was not final and conclusive; and therefore, if the present motion were carried, his rights would be injured materially, because, if, after the present motion were to be passed, he were to offer to vote at any future election, his vote would be refused, and consequently he should not stand in the situation he then did, as several noble lords had contended. With regard to the invalidity of mere resolutions, let the House look to their Journals, and see how various and contradictory their resolutions were. In the resolution of 1708-9 and that of 1711, how was his noble ancestor (the duke of Dover) dealt by? One resolution took away his vote as a Scotch peer, the other took away his seat as a British peer, and surely he was either a Scotch or a British peer. He persisted therefore in his claim to be heard by counsel in defence of his rights before a motion was carried which so far changed the nature of those rights, that it would put him in a worse situation than before, and prevent him from voting in the first instance. Besides, how fallacious was it to tell him, that he should stand were he did, after the motion was carried, when the House in that case would be fortified by their own resolution against any appeal he might bring to their bar, and would have nothing to do but to order their resolution to be read to him, as binding upon themselves, and as a full and complete answer to all that he could have to urge.

The Earl of *Morton* saw no reason to prefer one resolution of the House to another. As that of 1711 had been considered as unjust, why might not the other resolution of 1708-9 be deemed liable to the same imputation? At least till he heard some good reason to the contrary, he should hold himself entitled so to consider it. The Act of Union directed that sixteen Scotch peers should be chosen by all the Scotch peerage, to be their representatives in par-

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liament; why, therefore, were they to set up distinctions contradictory to an express act of parliament?

The Duke of *Richmond* observed, that it appeared to him to be so unjust to pass the present motion in the absence of one noble duke, whose rights would be materially affected by it; and when another noble duke standing in the same situation, desired to be heard by his counsel in defence of his rights, that he could not think the House ought on any account to adopt so monstrous a measure, especially when it was considered that the matter had been brought on by surprise. He had no scruple to acknowledge that his private opinion was, that the resolution of 1708-9 was right; but under the circumstances of the case, he thought it most unjust to attempt to enforce it in such a way as that proposed, without any petition being presented, any complaint made, or any new occasion formally stated, to warrant the House in its judicial capacity to re-pronounce its opinion. He contended, that no judicial court ever took upon themselves, upon their own mere motion, and without a new case before them, to promulgate a judgment long since delivered. He recommended a procedure by bill, in preference to the proposed motion, because it would remove all ground of complaint of injury, and afford the parties who conceived their rights infringed upon, abundant opportunity of making out their claims in the progress of the Bill through its various stages.

The question being put, the House divided: Contents, 51; Not-contents, 35.

Debate in the Commons on the London Petition against Forestallers and Regrators.] May 4. A Petition was presented to the House from the Lord Mayor, Aldermen, and Commons of the City of London, in Common Council assembled, setting forth,

"That the great advance in the price of meat, and other provisions, of late years, by distressing the middling and lower classes of people, has a tendency, in the apprehension of the petitioners, immediately to injure, and at length to destroy the manufactures and commerce of the kingdom; and that the petitioners are advised, and believe, that such advance has been partly occasioned, and is likely to increase, by the repeal, in the 12th year of his present Majesty, of most of the laws, which the wisdom and experience of our ancestors had found necessary to prevent forestalling and regrating cattle, and other articles of provision; and the petitioners apprehend the said evils may in some degree be removed, by reviving to a proper extent the laws against forestalling and regrating, and by ascertaining, licensing, and regulating, the persons employed as salesmen or factors in cattle and other provisions; and that the petitioners have entered into a very serious investigation of the cause of the said evils, which, from the importance of the subject, has occupied their attention for a great length of time, and has thereby prevented them from presenting a petition within the time limited by the House for receiving petitions for private bills: and therefore praying, that they may now be at liberty to present a petition for leave to bring in a bill, or bills, to prevent forestalling and regrating, and for licensing salesmen, factors, and others, employed in the sale of cattle, or other provisions, or to have such other relief in the premises as to the House shall seem meet."

May 16. It was moved by alderman Le Mesurier, and seconded by alderman Newnham, that the said Petition be referred to a committee.

Alderman *Townshend* declared the motion to be founded neither in necessity nor wisdom, nor fit for the House to countenance. There had been, he said, plenty of cattle at Smithfield all the winter, and as the season advanced, the price of butcher's meat would undoubtedly be cheaper. He reminded the House that the laws against forestallers and regrators had long since been repealed on the recommendation of the present Chief-justice of the court of King's-bench, and asked, if the House would, upon the suggestion of a committee of common-councilmen go back and revive what the deliberative wisdom of the legislature had upon experience determined should no longer exist? There were some vexatious suits, he understood, now going on upon some obsolete statutes, and if the present motion were listened to, vexatious prosecutions would be multiplied, and the only object obtained would be, that a few common-councilmen would be fed more cheaply than at present. He hoped, therefore, that the House would not suffer the petition to be referred to any committee, and moved, That the motion be negatived.

Mr. *Vyner* said, that the worthy magis-

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trate had so fully stated why the landed interest was not to be wantonly sacrificed to the capricious speculations of the common-council of London, that he believed it would be unnecessary to say any thing farther on the subject. After the legislature had thought proper to repeal the laws against forestallers and regrators, he considered the petition, and the attempt to refer to the consideration of a committee, as an affront to the House.

Mr. *Burke* observed, that he felt it difficult to refrain from smiling, whilst he discovered that the worthy aldermen and common council of London were so extremely anxious to be well fed. He presumed that the application to revive the laws against forestallers and regrators came from the aldermen concerned in it, after dinner; for their petition had all the marks of plenitude about it. It was an old saying, that Heaven sent provisions, but that the Devil sent cooks. So, in this case, he conceived, that having fed heartily, the aldermen went to quarrel with the cooks; but he advised them to think better of the matter. He begged them, at all events, not to be uneasy; for, if meat had been a little dear, when the price of feeding cattle was also dear, it would be considerably cheaper day after day; that there was already plenty of nice lamb at market, and in consequence of the kindness of Providence lately showered down upon the earth, the green peas were coming in, and every other article of luxury, both of meat and vegetables. As the worthy aldermen undoubtedly wished to ensure the continuance of having their napkins tucked under their chins, and as he was also desirous they should continue to make that characteristic appearance, he should oppose the motion for reviving the laws against regrators and forestallers. While they had plenty of provisions, he advised them not to go to loggerheads with the providers, but to let them fatten as well as themselves. In the instance before the House, the petitioners certainly acted under a mistake; but the errors even of the city of London were respectable; nay, their very ignorance ought not to be despised; and indeed they were ignorant only as to the manner of their being fed, as every body well knew. As he had been the humble instrument of moving the repeal of the laws against forestallers and regrators, he wished to stand up and prevent the dry bones of those gibbeted laws from being again clothed with flesh, and called from their merited fate into existence; but as he wished to treat the city of London with good humour, as they were willing to treat every body who visited them with good cheer, he hoped that so harsh a measure as the rejection of their petition would not be adopted; but that he might be permitted to move to put off the consideration of the motion till the 1st of August, by which time the aldermen would have had a sufficient number of delicious dinners to convince them in their own way of the impropriety of their purpose, as well as of its being altogether unnecessary. Mr. Burke spoke of the commerce of provisions, opposing it to commerce properly so called, and begged leave to ask the worthy alderman who had introduced the business, whether he was not aware that a free commerce was that species of commerce most likely to flourish and to prosper? Let him, therefore, ask himself whether a free commerce in provisions was not likely to make a plentiful and a cheap market; and, as forestallers and regrators were in that kind of commerce, what the factor, the warehouseman, and the merchant were in the other, so let them alone, and then as great a variety, and as large a quantity of provisions would be brought to London (of itself an absolute desert in that particular respect), as of muslins, and silks and spices, and teas from the East; of lumber and staves and rice from the West; of furs and timber, and hemp, and pitch and tar, from the North; of slaves and gold-dust and drugs and colours, from the South.

Alderman *Le Mesurier* said, that the good humour with which the right hon. gentleman had treated the subject had disarmed his anger, otherwise he should have spoken warmly of the expression of an hon. gentleman, who said that the application was an affront to the House. He had constantly understood that any body of subjects enjoyed an undoubted right to come to that House, complain of their grievances, and ask for redress. The petitioners had done no more; but, as it did not meet with the concurrence of the House, he would not press the application at present. All he wished was for leave to have brought in a bill, and to have let it stood over to the next session, when the House would be better able to decide upon its merits. The aldermen of London, he acknowledged, were fair game; but then, it ought to be considered that they

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were a very small number, indeed, compared to their fellow citizens, and the inhabitants of the metropolis. If they fed upon the good things of this life, it was their duty to take care of the millions connected with them, and to see that they had provisions as cheap as their circumstances made it necessary. With regard to the commerce of trade in general and the commerce of provisions, the comparison did not hold at all. Any coat would keep a man warm, but he must have something to eat, or starve. There were laws against forestallers and regrators yet unrepealed, and he begged the House to recollect, that they were not passed in unpopular reigns, but in those of Edw. 4, Hen. 5, Wm. 3, and reigns of those complexions and characters.

Alderman *Newnham* said, that with regard to the laws against regrators and forestallers, undoubtedly the repeal of them, generally considered, was a wise measure; but then there were regulations necessary of a moderate nature, which, he conceived, need only to be stated to be assented to universally. Smithfield, for instance, was the common market of the metropolis. Smithfield, consequently, ought to afford a true test of the plenty or scarcity of the season. At present, it did not, by any means, because the cattle which were sent to town by the feeders, did not come to Smithfield, but were stopped in their way, bought up at Finchley or Islington; Rumford or Stratford; Hounslow or Hammersmith; Edgware or Marybone; Croydon, Kingston, Bromley, or Dartford; and thus withheld from Smithfield, an artificial scarcity created, and all the effects of it produced, when there was a real plenty. What he wished, therefore, was, that the cattle designed originally for the London markets, should be obliged to be brought to Smithfield, and there, fairly sold. By such regulation, all parties would stand upon an equal footing; the farmer, the feeder, the drover, the salesman, the butcher, and the public.

Sir *Watkin Lewes* said, that the object of the motion was, undoubtedly, of great importance. The committee appointed by the corporation of London had taken great pains to investigate the cause of the high price of provisions, and had corresponded with the different corporations throughout the kingdom, who had concurred in their wishes that some remedy might be adopted to reduce the high price of provisions. The public were too much interested, and their expectations that the abuses stated would have been remedied, too much raised, to prevent their feeling themselves hurt at the disappointment, and particularly at the manner in which the subject had been treated. He had heard no argument which carried any weight in his mind against the motion. Ribaldry had been substituted in its room, unworthy the dignity of that House, or the importance of the subject. He should certainly give his support to the motion for bringing in a bill, that it might be submitted to the observations of those competent to give an opinion on the subject.

The motion for referring the petition was negatived.

Debate on Mr. Grey's Motion for an Inquiry into the Abuses of the Post-office.] May 15. Mr. *Grey* rose to make his promised motion. He began by disavowing any personal motive for his conduct, and declaring that the higher consideration of what was the duty of a member of parliament impelled him to come forward, and state the necessity of an inquiry into certain abuses in the Post-office, which proved the malversation of those who were entrusted with the management of that office. He proceeded to mention, as the first and leading fact on which he grounded his application—an application which he would not have made, had there appeared any other means likely to be resorted to for the cure of the abuses in question, than a parliamentary inquiry—that, in the year 1775, a person of the name of Barham, who had been agent of the Dover packet, and was grown old and infirm, applied to the Postmaster-general for leave to retire, and to be superannuated. Leave was given, and Mr. Walcot, formerly of the Post-office in Ireland, was appointed, upon condition of paying Mr. Barham an annuity. This was thus far a fair transaction; but at the same time it was conditioned that 350*l.* a year more out of the salary should be paid annually to Mr. Lees of the Post-office in Dublin, to be by him paid to a person no otherwise known than by the letters A. B. This, Mr. Grey said, he charged as a corrupt purchasing of a place, and though he fully acquitted lord Carteret of any motive of personal interest, or advantage to himself, from the transaction, yet he charged it as an instance of impure con-

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duct in lord Carteret, as that noble lord could not but have known of it. In justification of lord Carteret, in respect to his having any personal interest in the transaction, Mr. Grey read part of the letter or memorial of Mr. Lees to the Postmasters-general, in which he states that the person represented by the initials A. B. is wholly unknown to lord Carteret; but that the person it really means it would be highly dishonourable in him to name. Mr. Grey commented on this transaction, and then said, that he would barely state the outline of one or two other facts, sufficient in his mind to warrant a parliamentary inquiry. He mentioned several circumstances relative to different packets, stating that, in some instances, they were worn out, and vessels not above a third of their tonnage, and with scarcely a twentieth part of their complement of hands on board hired to do their duty, but charged as complete packets to government. In others again there were some packets which did no duty for ten months together, and yet were charged as if on full and constant duty. These were the Trevor, the Hamden, the Tankerville, and the King George packets. After mentioning the above, and various other abuses, Mr. Grey proceeded to extend his charge to the Chancellor of the Exchequer, declaring that the earl of Tankerville, while in office, had busied himself attentively upon endeavouring to correct the abuses in question; had suggested several plans for their prevention in future, and had communicated those plans to the right hon. gentleman; had received his commendation for his zeal and attention, and had been promised his support: but as he could not prevail on lord Carteret to see the abuses in the same light as he did, nor take the same pains to cure and prevent their continuance, the two noble lords quarrelled, and it became impossible that they should continue joint Postmaster-general. This being the fact, an ordinary observer would have imagined that the right hon. gentleman would not have dismissed the Postmaster-general, who had shown himself anxious for a reform, and had taken pains to effect it; but the other who was a protector of the abuses in question, and the opposer of the reform to be desired. Instead, however, of dismissing lord Carteret, the right hon. gentleman had dismissed the earl of Tankerville, and that on a sudden, and in a manner the most extraordinary. Mr. Grey reasoned upon these circumstances, and said, that it was clear there could be no motive for dismissing the earl, but that noble lord's having preferred doing his duty to every other consideration. He conceived therefore that the Chancellor of the Exchequer had acted in a manner deserving of censure; and with a view to establish that fact, as well as the other charges, against lord Carteret, which he had stated in the course of his speech, he concluded with moving, "That a committee be appointed to inquire into certain abuses in the Post-office."

Mr. *Pitt* rose, he said, not to detain the House long, and certainly not to oppose the motion. A motion made for an inquiry into abuses stated to exist in a flagrant degree, and which an hon. gentleman declared himself impelled, by his duty as a member of parliament, and not by any private or personal views, to make, was such a one as he should at all times feel the strongest inclination to comply with, and from which nothing but evident and palpable impropriety could induce him to withhold his consent. But he expected, if the motion were to pass, that the inquiry intended to be made would be proceeded upon before the end of the session. The hon. gentleman had made heavy charges against a noble lord of high character and unsullied honour, and had thought proper also to extend his accusation to him, and it would be but a bad mode of consulting either his own or the noble lord's reputation, to endeavour to shrink from an inquiry into the merits of the accusation. The part which he had taken in the transaction relative to Mr. Lees, was one which he was always ready to submit to the judgment of the House. A memorial had been sent from the General Post-office, signed by the two noble lords who then presided there, the earl of Tankerville and lord Carteret, stating that Mr. Lees would probably suffer an injury in his employment, to a very considerable amount, in consequence of the separation of the two establishments of the Post-office—that of England and Ireland—from each other. It also stated the annuity paid by Mr. Lees to Mr. Walcot, and by Mr. Walcot to Mr. Barham; and he, together with other lords of the treasury, as well in consideration of the actual loss sustained by Mr. Lees, as from the circumstance of that gentleman having done the business for a

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considerable time for a small salary, in the prospect of an increase in his profits in future, did, upon inquiry into the amount of the loss, sign an order for an addition of 400*l.* to his salary. As to the charge made by the hon. gentleman, that he was inclined to wink at abuses in the Post-office, or any other public establishment, it was a charge wholly unwarranted by fact. So far was he from any backwardness for the reform in abuses in that office, that he had suggested a measure for the general reform of all those very abuses relative to shipping and other matters which the hon. gentleman had mentioned, and that measure formed a part of the Office Reform Bill.

Mr. *Fox* declared, that it was somewhat too hard on his hon. friend to endeavour to tie him down to a completion of his report before the end of the session. It was not possible for any gentleman to answer what the sort of evidence would be that the committee might find it necessary to have before them. Possibly they might be obliged to send to Ireland for Mr. Lees, and that would unavoidably delay the proceedings for some days. All his hon. friend could undertake was, to proceed as far as he could, with such evidence as should be found to be within his reach; and it ought in candour to be remembered, that when his hon. friend gave notice of his motion, he had said, that if it was thought too late in the session, he would willingly defer it till the next. With regard to the right hon. gentleman's having signed his name to the treasury warrant, in common with other lords of the treasury for 400*l.* to Mr. Lees, as far as that went on the ground therein stated, he had not the smallest scruple to say it was a perfectly fair transaction; but, then, had the right hon. gentleman the 350*l.* paid to Mr. Lees for A. B. in his view at the time? because if he had, he had not merely signed an annuity of 400*l.* simply to Mr. Lees, but an annuity of 400*l.* in addition to 350*l.* paid to Mr. Lees before, making in the whole 750*l.* Mr. Fox reasoned upon this as a matter that warranted supposition, and, till it was explained, it was not unfair to presume it to be so. With respect to the sudden dismission of any of the King's servants, his notions upon that matter were rather high, as he conceived it to be the undoubted prerogative of the Crown to choose its own servants; but if it were made out upon the proposed inquiry, that the earl of Tankerville had endeavoured to correct the abuses stated by his hon. friend, and had suggested to the Chancellor of the Exchequer plans of correction of those abuses, and especially of that of suffering 350*l.* of the public money to be annually paid away in the name of A. B. to a person whom no body knew; that circumstance, coupled with the sudden dismission of the noble earl, made it undoubtedly a matter deserving of censure in the minister. But he saw a reason, Mr. Fox said, which made it little or no wonder that the noble earl was suddenly dismissed, and which convinced him that his hon. friend's partiality to his noble relation made him rather unreasonable; for could his hon. friend imagine that any merit in his noble relation could stand a moment in the way of the present chancellor of the duchy of Lancaster (Mr. Jenkinson), and first lord of the new Board of Trade, against whose interest the dismission of a whole administration did not weigh a feather?

Mr. *Pitt* said, that the only grounds on which the 400*l.* Treasury warrant to Mr. Lees had been signed, were, in order to make up to Mr. Lees an annuity adequate to what he lost by the separation of the Post-offices of Great Britain and Ireland. With regard to the hon. gentleman's not completing his report, he must continue to think, that no member was warranted in bringing forward matters of charge against a noble lord, and against himself, unless he was prepared to render an immediate inquiry effectual.

Viscount *Maitland* reprehended the choice of such a period of the session, to bring forward an attack of that sort on the character of a noble lord, who had served the public highly to his own credit for many years. The subject of the proposed inquiry had been hawked about the streets of London for many months past, and had been in almost every body's mouth. Why, then, was it not brought forward earlier in the session, when it might have been fully gone through, and the blame, if any have alighted upon the proper object. The present motion, upon the face of it, seemed to arise rather from resentment than justice. It looked as if it were founded in pique, and with a view to keep the noble lord, now at the head of the Post-office, in a disagreeable predicament, by calling his character in question, and not allowing him an immediate opportunity of clearing it from all imputation.

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Mr. *Sheridan* defended Mr. Grey's conduct from the construction which had been put upon it. He said, that it was possible some other influence had induced the noble viscount to stand up so warm an advocate for the present Postmaster-general, than his own conviction, that his hon. friend meant any thing at all unfair in bringing forward his motion at that advanced period of the session. The fact was this:—The earl of Tankerville had himself intended, as was well known, to take some step in the House of Lords relative to the subject, nor was it till very lately that he had been informed that the only effectual and proper proceeding would be, to move in that House for a committee of inquiry. His hon. friend, therefore, was not at all to blame for not having brought forward the subject sooner, since it had not been in his hands till within a few days. The most material part of the proposed inquiry was the charge against the Chancellor of the Exchequer. That matter was certainly a serious ground of inquiry, because no man in that House dealt more in professions; but he wished to try the right hon. gentleman by his conduct, and not by his professions, or the preambles of the Bills which he had proposed and got passed. The right hon. gentleman had then turned to one of those Bills, his Office Reform Bill, passed more than two years ago, and yet that House had heard nothing of the effects of that Bill as to the abuses in the Post-office, to which the right hon. gentleman had said that it alluded. He had at the time when the Bill was in agitation, stood up to oppose it, and pronounced that it would prove ineffectual, and that the same end might be better obtained by other and very different means. The motion of his hon: friend, and the ground of it, sufficiently proved that assertion.

Viscount *Maitland* observed, that with regard to the influence to which his hon. friend had alluded, it was rather a delicate point for him to treat of; but thus much he would say, that the person glanced at by his hon. friend was not only ready to meet an inquiry into any late part of his conduct, but would not shrink from an investigation of the whole of a life of fifty years officially employed in the service of the public.

Mr. *Pitt* said, he verily believed that the hon. gentleman who rose last but one, had spoken with his usual sincerity, when he said, that the charge against the Chancellor of the Exchequer was the material part of the inquiry, and he did not at all doubt but, when it was considered what use ingenuity might make of reports to disseminate stories and tales to his prejudice, that the opportunity of doing so was the principal ground which induced gentlemen to be so anxious for the inquiry. As to the Bill of Reform to which he had referred, and the argument that nothing had been done in consequence relative to the Post-office, gentlemen would be so good as to recollect that the Bill pointed also to other reforms of more material importance, and that the Commissioners of Accounts, were themselves a considerable time before they made a report upon that very important object of their attention, the balances in accountants' hands; but as soon as they did so, measures were immediately taken which effectually answered their end, and produced very large sums for the public. With regard to the noble earl having endeavoured to correct abuses, and received commendation from him for so doing, it was undoubtedly true; but then as to any great advantage or much dispatch in the noble earl's plan of reform, he could not say that he entertained very sanguine expectations.

Mr. *Sheridan* answered, that the right hon. gentleman dealt more in professions than in acts. The right hon. gentleman had said that the commissioners, under the Office Reform Bill, had not come to the Post-office. He asked, then, to what else had they turned their attention? He reminded the right hon. gentleman of his eagerness to triumph over a noble lord (North) by his famous speech on whip-cord, the kitchens of Downing-street house, and a variety of other trifling topics, which, when Chancellor of the Exchequer, he had stated as instances of the noble lord's negligence and corruption. He asked how the right hon. gentleman could reconcile it to himself to have built the palace at the corner of the Admiralty, after having maintained such an argument? It was, if not a proof of corruption, at least a proof of profusion. Again, if he could not be charged with a direct corrupt use of the influence of the Crown, he had made as prudent and as interested an use of it as any minister, in the distribution of places and emoluments, and particularly in bestowing titles and honours. Upon the whole, Mr. Sheridan contended, that Mr. Pitt had always promised and professed purity, but had acted

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with as much self-attention, and as much neglect of reform, as any minister whatever.

Mr. *Pitt* replied, that the hon. gentleman, as usual, had grossly misrepresented facts. In the first place, he had not made the speech he alluded to, while in office, but when, on the other side of the House, from knowledge obtained, when Chancellor of the Exchequer, at the Treasury, and he had stated them to the House, not as charges against the noble lord in the blue ribband, but as a proof of the want of regulation and check in the particulars to which they alluded. As to nothing having been done in the way of reform, let any man recollect the state of the country when he came into office, and look at it now, and see if nothing had been done.

Mr. *Adam* thought the right hon. gentleman excessively reprehensible, for having introduced the name of the noble lord in the blue ribband in his present helpless state, and made him the subject of animadversion in his absence. The right hon. gentleman was correct in stating that he was in opposition, and not in office, when he made the charges relative to whipcord, the new kitchens in Downing-street House, &c. He would not have presumed to have said a syllable of that nature, while the noble lord was out of office, when he thought he might have been able to have prevailed on him to join him. The noble lord had since joined himself to men of the first genius, ability, and virtue, and the right hon. gentleman had acted in a manner directly opposite; he had received those former dependents on the noble lord, who, by their recent conduct, had proved how much the noble lord's confidence had been misplaced, and, with their aid, he had been enabled to collect his members of Parliament.—[A cry of Order! order!] Mr. Adam said, that he meant no offence to the House, but his zeal, his affection, his attachment to the noble lord, had rendered it impossible for him to express himself calmly, when he heard him, in his present unfortunate condition, made the subject of personal animadversion.

Mr. *Pitt* declared, that no man could more readily forgive improper words, when dictated by affection and tenderness for an absent friend, labouring under severe indisposition, than himself; and no person regretted the cause of the noble lord's absence more; but he could not help observing, that the hon. gentleman had not lost his temper merely, but his memory; for so far from having introduced the noble lord's name into the debate, an hon. gentleman opposite to him had forced it upon him; neither had he made, at any time, the least charge against the noble lord, as a ground of censure, or with a view to the charging him with corruption or criminality, but had merely, as he before remarked, stated certain proofs of the want of regulation and check in the higher offices of government as arguments in favour of the necessity for a reform. Mr. Pitt took notice of the coalition, and said, that the persons whom the noble lord had joined, had not been thought to include all the virtue and ability of the country until after that event.

Mr. *Fox* observed, that his hon. friend did not impute it to the right hon. gentleman that he had charged his noble friend who was absent, with having done any thing which bore the appearance of corruption or criminality, but with having thrown out, as loose insinuations, what he ought not to have mentioned at all, unless he had brought them forward in the shape of charges capable of proof and refutation. Mr. Fox defended lord North from the shadow of suspicion, by declaring, that in his hottest hour of opposition to the noble lord, when minister, he never dreamt of imputing any thing like corrupt motives to him for any part of his conduct; nor had he ever heard an individual hint at such an idea. He defended the coalition from the attack which Mr. Pitt had made upon it, and said, when that gentleman had stood up in 1782, after the noble lord had been driven from his post, and declared against a retrospect with a view to punishment, it had been understood that he wished to court the noble lord with a view to a junction. [Mr. Pitt said across the table, "Who understood so?] Mr. Fox replied, I did for one, and so I have reason to believe did many others, from the conversation I then held with them. Certain it was, that before the coalition the right hon. gentleman never expressed himself with that acrimony, which he had since used when speaking of the noble lord.

Mr. *Pitt* denied the fact, and concluded, that the right hon. gentleman chose to forget all that had passed previous to the coalition. He chose, however, to date his recollection from his first appearance in that House, and to appeal to all who

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had witnessed his conduct, whether he had not uniformly persisted in declaring, that he thought the noble lord a bad minister, and that he never would act with him in any public situation as a minister. If the right hon. gentleman had understood that he meant to court the noble lord's political friendship at the time which he had mentioned, as he then lived with him on terms of friendship, why did he not put the question to him fairly? The fact was, he never had afforded colour for such a sentiment being entertained by any one, and had no other motive for being against a retrospective inquiry in 1782, than that he thought the situation of the country made it more wise to press forward with a view to the future, than to look back to the past. As to charging the noble lord with having been actuated by motives of personal corruption, he had never suggested or entertained such an idea.

Mr. *Fox* admitted that he might not have put a question to the right hon. gentleman, but contended that he had thought so; and insisted upon it, that his manner of mentioning the noble lord had been more guarded, and less offensive in the interval between the noble lord's going out and his return to office, than at any time since.

Mr. *Grey* declared, that his motion arose from no motives of personal pique or resentment of any sort whatever; and that he possessed the materials for the charges in his mind adequate to the end proposed, since he held in his hand a copy of the memorial of Mr. Lees, and other documents important to the charges. He took notice of Mr. Pitt's argument, which he thought unwarrantable and injurious to his honour, and said, that no man should dare to question the purity of the principles on which he acted.

Mr. *Pitt* answered, that the hon. gentleman arrogated somewhat too much to himself, if he conceived that he should not take the liberty of calling his motives in question as often as his conduct warranted such a freedom. If the hon. gentleman chose not to have his motives questioned, he must take care that his conduct was such as not to render it necessary.

Mr. *Grey* replied, that he should never act in that house upon any principle which did not appear to him to be honourable; and while he was conscious that his conduct was governed by the unerring principles of honour, if any person chose to impute dishonourable principles to him, he had those means in his power, to which it would then be proper to resort.

Mr. Pitt and Mr. Sheridan rose together; but the latter declaring that he flattered himself that the House would wish rather in such a moment, that he should delay the right hon. gentleman's speaking for a very few seconds, was heard first.

Mr. *Sheridan* then said, that his hon. friend, he saw clearly, had mistaken the Chancellor of the Exchequer's meaning but his words hastily heard, might, at their first sound, have made the sort of impression which he perceived they had made on his hon. friend; though he was ready to admit that this was not their true meaning.

Mr. *Pitt* declared, that he had not before risen with heat, nor should there be any heat in what he was going to say. He then deliberately repeated the argument of his former speech, and added, that with respect to any means to which the hon. gentleman, in that case, might wish to resort, it would be for himself to determine whether they were proper or not.

Mr. *Steele* remonstrated against the tone of defiance which the hon. gentleman had assumed, and which could not but prove painful to every gentleman's breast. He desired to ask the hon. gentleman if, in his own opinion, he had the means in his power to complete the inquiry for which he had moved. If he had not, he would say that it was unworthy a member of parliament to have opened, at that period of the session, a matter involving a charge against the noble lord at the head of the post-office, and against his right hon. friend, and leaving them both in suspence before the public.

Sir *James Johnstone* declared, that he would suspect whom he pleased. He would suspect the Speaker; he would suspect my lords the bishops; he would suspect every man in that House; he was sent there to suspect them all, and he dared to do his duty.

Mr. *Grey* declared, that he meant not to assume a tone of defiance, nor was he conscious that he had assumed it. As to the question which the hon. gentleman had put to him, he had, in his mind, proof sufficient of the facts which he had stated, if Mr. Lee's memorial to the Postmasters-general was admissible as evidence.

The motion was put and agreed to, and a Committee was accordingly appointed.

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May 21. Mr. *Grey* acquainted the House, that the Committee had gone through the several abuses in the Post-office, to which he had alluded when he took the liberty of proposing a committee of inquiry a few days ago, and his mind was made up to the conviction, that the committee had heard evidence sufficiently satisfactory to substantiate every fact which he had opened to the House. He wished, therefore, to make a report of their proceedings as far as they included those facts. But as other gentlemen had stated other facts, which were then under inquiry, he could not make a complete report. This being the case, he trusted that his report would be received, and that it would be considered as a full and complete answer to those who had charged him with having wished to open accusations in the House, and propose a committee of inquiry, without having in his possession the materials and the power of making a report to the House before the prorogation. He concluded with moving, "That the Committee have leave to report their proceedings from time to time."

Viscount *Maitland* complained of the injustice of making a partial report on a subject of so delicate a nature, as an accusation against a noble lord high in office, at a period of the session when it would be impossible for that noble lord to exculpate himself in time for the House to receive his exculpation previous to the prorogation of parliament.

Mr. *Pitt* declared that he was extremely impatient that a report from the Committee should be made; but no feeling of anxiety on his own account, nor on that of the noble lord in question, could reconcile him to the admission of a piece-meal and partial report upon so delicate a subject. A complete report the House was entitled to expect; a complete report he anxiously wished to see; but to nothing short of a complete report could he give his consent.

Mr. *Fox* observed, that he had thought it extremely hard and unreasonable in the first instance to expect that his hon. friend, not having the power either of lengthening the existence of the session, or of knowing how long it would exist, should make any report before the House rose; but surely it was much more hard, and much more unreasonable, after his hon. friend had declared, that he had heard every witness, and was ready to make a report as far as those facts went, to expect that his hon. friend could undertake to make a complete report, when it was recollected, that one of the members of the Committee (lord Maitland) was rather adverse to the object of the Committee, and had started some new facts, which made their inquiries more extensive. In his opinion, his hon. friend had done every thing that could reasonably be expected from him, and had fully answered every promise or expectation which he had held out to the House.

The question was put, and negatived.

May 23. Mr. Grey brought up the report of the Committee appointed to inquire into the abuses of the Post-office. It was ordered to be taken into consideration on the 28th. A motion for printing the report was negatived, by 120 against 16. [For a copy of the Report, see Commons' Journals, Vol. 42. p. 800.]

May 28. The order of the day for taking into farther consideration the Report of the Committee to inquire into certain abuses in the Post-office, having been read,

Mr. *Grey* rose and remarked, that after what had passed, it would be unnecessary for him to trespass long on the patience of the House; and therefore he would shortly touch upon the several facts stated in the report, in order to show that every abuse to which he before adverted, had been fully substantiated by evidence. He should not, he said, wonder if the charges he had made, although fully established by proof, were to appear light and trivial in the eyes of the House, or at least be so stated by those who might think proper to oppose the motion he should have the honour to make. All charges must indeed seem trivial, when compared with those enormous and flagitious charges, in the investigation of which the House had been so long and so solemnly engaged; but though he did not bring forward charges of unequalled oppression, rapacity, and corruption, of the most unprecedented plunder of lacks and crores of rupees with the one hand, and the most unexampled and lavish waste of them with the other, yet the charges he had to urge were not in themselves of an insignificant nature; they pointed directly to gross malversation in office, to illegal bargain and sale of public situations, to connivance at fraudulent abuse, to the dismission and disgrace of those who had showed themselves anxious for reform, and to countenance

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and protection extended in favour of those who had opposed reform. Mr. Grey now proceeded to describe the different facts in the order in which they are noticed in the Report of the Committee; and first he desired to call the attention of the House to the sum of 350*l.* annually paid by Mr. Lees, secretary of the Post-office in Ireland, to a person no otherwise known than by the letters, A. B., although it appeared that the person so mentioned was Mr. Treves. He commented upon this fact as the most important of any stated in the Report, and contended that it was not only an indirect and undue application of the public money, but contrary to law, and as such highly deserving of censure. He expatiated on the evil tendency of such an illicit contract, and maintained, that it was clearly wrong in the conception of lord Carteret himself, from the secret and concealed manner in which the transaction had been veiled from the public eye, and from the great concern shown by the noble lord upon its having been discovered in the narrative of Mr. Lees, that Mr. Treves was the person who was described by the letters A. B. He mentioned also Mr. Todd's declaration before the Committee, that such a transaction was unprecedented, and that he had expressed his disapprobation of it to the Postmaster-general at the time when it took place, and laid considerable stress upon that circumstance.

He next proceeded to the second point stated in the Report; that of a payment of 200*l.* a year, which had been exacted from Mr. Dashwood, appointed to the office of Postmaster-general in Jamaica: this also was in favour of Mr. Treves, who had never performed any public service in the Post-office, or in any other public department, to entitle him to such reward. That fact being of a similar character and complexion with the first, it fell within the same observations which he had applied to the former; and it was unnecessary therefore for him to offer any additional remarks. The next fact was that of permitting Crisp Molyneux, esq., agent to the packets at Helvoetsluys, to dispose of his office to Mr. Hutchinson, against whom complaints had been made for improper conduct in his office. On this occasion Mr. Grey stated, that it appeared to the Committee that a letter had been written in the month of January last, informing Mr. Hutchinson, that if he did not perform his engagements to Mr. Molyneux, Mr. Molyneux must have his place again. The whole of this transaction, he contended, was directly illegal and unjustifiable; and the more so, as neither that nor the former transaction were entered on the books of the office. He afterwards mentioned the 100*l.* a year proposed by lord Carteret to be paid in lieu of his house to Mr. Staunton, postmaster at Isleworth, declaring that the earl of Tankerville had resisted the proposition, but that after his removal from office the allowance had been made. He next called their attention to the fact of the earl of Tankerville having made frequent representations to the First Lord of the Treasury, respecting the abuses which he had discovered in the Post-office, and that he was encouraged in the belief, that he should certainly have received the support and assistance of government in redressing the same, but that he was, soon after such encouragement, removed from his office of Postmaster-general. Mr. Grey contended, that the fact amounted to a criminal charge against the Chancellor of the Exchequer; he mentioned that an attempt had been made to criminate the earl of Tankerville before the Committee, but that it was no sooner gone into than it had been abandoned as altogether untenable. He entered into a discussion of the cause and origin of the misunderstanding between lord Carteret and the earl of Tankerville, and denied that it arose from any other circumstance than the opposition which lord Carteret gave to the reform of abuses proposed by his noble relation. He took notice of the various abuses proved to exist in the management of the packet boats, particularly that no deduction had been made from the hire of any packet boat whilst under repair, seizure for smuggling, or when unemployed. He also stated the giving a two and a half per-centage upon the gross expenditure to the person having the management of the packet boats, as the means of creating an undue influence upon his integrity; but at the same time he acquitted Mr. Todd, who at present enjoyed that emolument, of ever having been biassed by it. He said, there had appeared a tolerably stout and ready witness before the Committee, who ventured to declare, that he was of opinion, that making contracts in the present manner without any reserve for non-employment, &c. was the most economical that could be adopted. How far such an opinion deserved serious reliance, he

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submitted it to the good sense of the House to decide.

Mr. Grey now entered into a series of general reflections on the whole of the case, which, he said, in his mind involved a severer charge against the right hon. gentleman opposite to him, who, by turning out the earl of Tankerville after having given him reason to believe he should be supported in the reform of the abuses he had discovered, proved, that notwithstanding all his professions of purity and reform, he was by no means a sincere friend to either the one or the other. The right hon. gentleman, when the subject was last under consideration, had read them the preamble to his own Office Reform Bill. He wished not for high-sounding expressions in the preamble of a bill; he wished to see deeds, and not mere words; that Bill had been passed above two years, and the House had heard of no report. The commissioners of accounts, on the contrary, who had been so ill-treated as to have a secretary of the Treasury sent down to a thin House, to move a cold address to his Majesty respecting them, when scarcely any of the members present knew what was doing; those commissioners had been appointed in the Spring; and in November they brought in their first report, and by the time they had existed two years, they had presented seven reports; if, therefore, the commissioners under the right hon. gentleman's Bill could not find time to inquire into the abuses of the Post-office, and proceed to the reform of those abuses, the commissioners of accounts ought to have been directed to do it; but from the whole complexion of the case it was evident, that the right hon. gentleman had not been sincere, when he had either in that instance, or any other, dealt so largely in professions of his wishes of reform; if he had, that House must before that time have seen some fruits of so much promise; whereas there were not any traces to be found of real reform of office. Speaking of the dismission of the earl of Tankerville, Mr. Grey said, his noble relation had been sacrificed for the sake of arrangements in favour of a noble lord who had seated the right hon. gentleman in his present situation, and who could dismiss him from his office with a nod. The noble earl had been sacrificed in favour of that noble lord, who had been well described by an hon. friend of his as of so much weight and importance, that the whole administration had been put in the scale against him and found wanting. Mr. Grey concluded with observing once more, that all the facts which he had opened to the House had been fully proved, and therefore he moved, "That it appears to this House that great abuses have prevailed in the Post-office, and that the same being made known to his Majesty's ministers, it is their duty, without loss of time, to make use of such means as are in their power to reform them."

Sir *John Aubrey* complimented the earl of Tankerville for the part he had acted in bringing forward such an inquiry. He said, that the abuses stated had been all proved, and that had not the noble earl acted as he did, he would himself have been an offender. He was proud of the opportunity of doing justice to the character of a noble earl, so nearly connected with him by alliance and by friendship.

Viscount *Maitland* said, that the report contained facts of the most stale, trivial, and unimportant nature, that had ever engaged the attention of parliament. The only difference between the present complexion of those facts and their former aspect was, that which had been in almost every body's hand without doors as a narrative of facts, was now dignified with the form and title of a report of the House of Commons. The first circumstance was a grant of 350*l.* a year to Mr. Treves, an intimate friend of lord Carteret, which was no charge whatever to the public, nor any impediment to the public business; but was, with the consent of the party most interested, paid out of the existing emoluments of the office of Secretary of the Post-office in Dublin. That such a measure was not strictly justifiable he was ready to admit, but it was by no means unprecedented; and, compared with the transactions in every public office only ten years ago, it was purity itself. Nor, indeed, had it been even insinuated that it originated in any thing like a corrupt motive in lord Carteret. His hon. friend had laid great stress on the opinion of Mr. Todd respecting the transaction. That opinion, he must take leave to say, was of no authority in that House, upon a point which every gentleman present was to the full as competent to judge about as Mr. Todd. The next transaction was that of Mr. Dashwood, Postmaster of Jamaica, which was, as the hon. gentleman had stated it, exactly similar to that of the 350*l.*, and therefore required

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no new observations. With regard to the permission of Mr. Molyneux to resign the agency of the Helvoetsluys packet boats to Mr. Hutchinson, that was a transaction founded in a charitable intention to relieve an unfortunate man from prison; and, if there was any criminality in the transaction, it was as much imputable to the earl of Tankerville as to lord Carteret, since the noble earl had taken as great a part in it as the noble lord; but, in his opinion, there was no criminality imputable to either.—Viscount Maitland went into the other facts stated in the report, and commented upon each with a view to show that it was either not personal to lord Carteret, or of a trivial nature. With respect to the 2½ per-centage allowed to the person who managed the packet boats, that appeared to him to be the most important abuse of all, and Mr. Todd was as ready to admit that it was so, as any man living, though he had acted with so much guard over himself, as to be ready to lay open all the actions of his official life to the strictest scrutiny. The misunderstanding between lord Cateret and the earl of Tankerville did not arise, as had been said, in consequence of the former opposing the latter's endeavour to reform certain abuses, but had begun much earlier, and upon far different grounds. Viscount Maitland now read the letters from Mr. Todd upon the subject, and the answers, in which the earl declined taking the advice which Mr. Todd was so ready to give him unasked. In the earl's letters, viscount Maitland observed, that he did not find that he cooled very fast, with respect to the transaction alluded to, or appeared cautious of introducing expressions indicative of warmth. With regard to the dismission of the earl, he defended the measure, and took notice of what Mr. Grey had said of the arrangements in favour of lord Hawkesbury, declaring that that noble lord's name was an excellent ingredient in a recipe to render any thing unpopular. Upon the whole, he said that the abuses stated in the report were not of the magnitude to call for the investigation of that House, but might fairly have been left to the correction of those at the head of the office, or for the examination of the Committee acting by virtue of the authority given them by the Office Reform Bill. He added, that he should move the previous question, meaning afterwards to move that the farther consideration of the Report be put off for three months.

Captain *Bowyer* rose to confirm the assertion that the Post office packets were concerned in smuggling. He stated several distinct facts to prove this, and detailed the circumstances of one case, in which the vessel, instead of being sold, and half the money paid to the captain and crew of the ship that seized her, was valued, and a third only paid to the captain and crew, and the packet given back to the captain who had been guilty of smuggling. He said that some of the Post-office packets had false floors and ceilings to the cabin, and he had even heard of their having hollow beams, the better to conceal contraband articles.

Mr. *Baring* rose, as one of the commissioners under Mr. Pitt's Office Reform Bill, and gave an account of their labours. He said, they had first gone into the old Board of Trade office, next into the Secretary of State's office, and then to the Admiralty office; from thence into the office of the Treasurer of the Navy, and that they were now in the Navy office. He declared that they were not directed by the Act to make reports to that House, but to the Lords of the Treasury; therefore the hon. gentleman need not be surprised at not having heard of any report from them. The fact was they had made three reports long ago, and the reason why they had not made another before now, was the extreme arduousness of their present object of inquiry, since they found the Navy office and Admiralty office so connected, that, in order to make a complete report, they were obliged to go back from one to the other. Mr. Baring spoke of the difficulty of their duty, asserting, that he could sooner make an entire report, like those of the commissioners of accounts, than write a single line of the report which ought to come from that committee of which he had the honour to be a member.

Mr. *Pitt* said, that he should not think it necessary for him to take up much of the time of the House with what he had to say upon the subject. It would indeed be unpardonable in him were he to expatiate much, after the very ample elucidation made by the noble viscount of the general question. Neither did he imagine that the House would expect that he should take much notice of what had fallen from the hon. mover, of a direct personal tendency against himself, as that, at least a great part of it, certainly was by no means connected with the subject then under

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discussion; yet he could not but observe upon the singularity of the hon. gentleman's conduct, who began his political career in an early part of the session, by an opposition (a reluctant one, as he had himself said) to a particular measure of government, and who had accompanied that opposition with professions of great personal regard and respect for him, and of a desire, as far as he could do it consistently with his duty as a member of Parliament, to give his general support to administration, and had particularly disclaimed the character and imputation of being what was called a party man. Whether he had deserved those sentiments of respect with which the hon. gentleman had complimented him or not, of this he was at least convinced, that since that period he had done nothing to forfeit them; nay, the very subject which had been made use of by the hon. gentleman, as a channel for censure and accusation against him, was a subject every circumstance of which had taken place long before, and been known to the hon. gentleman, according to his own statement, even previous to his having a seat in that House. Notwithstanding those professions of a reluctance to oppose Government, of respect to administration, and of disclaiming the character of a party man, he could not but say that he thought the present a wanton attack on Government, and that it was conducted in a manner highly personal and disrespectful to him, and besides favoured very much of the utmost asperity of party.

With respect to the subject itself, it appeared to him as by no means of consequence sufficient to be made a subject of parliamentary inquiry. All that could be done in the work of reformation ought to be done by the executive government, and in such trivial instances a resort only had to Parliament, when it should appear that Government had obstinately neglected that necessary part of their duty. But he left it to the judgment of the House, whether Administration had been guilty of such neglect in the Act of Parliament, which had just been read, for the purpose of ascertaining whether or not he had proved remiss in the business. The House had seen in that act a full provision for every necessary reform, and full powers given to the commissioners for that purpose. The hon. gentleman, not being able to charge him with having omitted the Post-office in that Act, had complained that the commissioners had delayed to enter upon that part of their duty; but all that was necessary for him to say upon that head was, that the commissioners had not been idle; and then the question would be, whether the Post-office was of that rank and importance, compared with the other offices which had been examined, or the abuses in it of such glaring and prominent magnitude, as ought to have entitled it to a prior attention. This he by no means thought could be alleged; for, independently of any superiority in point of importance, it had been thought advisable to begin with departments of the very highest rank, in order to remove any impression that the examination of the commissioners was a derogation from the dignity of those who presided over the several offices. This idea was totally removed in the subordinate departments, by the higher ones having first submitted to it. In pursuance of this principle, the commissioners began with the Treasury, then they proceeded to the offices of the Secretaries of State, from thence to the Admiralty, and afterwards to the Navy office; and he believed that no gentleman who knew the nature of that department, would wish that its examination and reform should be delayed a single hour. It was evident, then, that with respect to the object of reform in that office, Government had done all in their power, and had already put it into such a train as the Legislature approved of, by passing a law for the purpose. The object of the motion, then, could not be to provide for a reform, for that was effectually done already; but must be for the purpose of censuring a noble lord at the head of the Post-office for supposed abuses, or more probably with the view of casting a reflection upon him for the part which he had taken in the arrangement by which the noble earl had been removed from it. With respect to the latter, he apprehended that the House seemed to feel the impropriety of entertaining such a discussion, as it certainly belonged solely to the Executive Government to dispose of the several public employments, and Parliament would be very cautious how it attempted to control or question the discretion with which that power was exercised. It certainly had been found necessary to remove one or other of the noble lords, as their differences had risen to such a height that they could not even sit in the same room with satisfaction; and

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that discretion with which Government was invested had led them to determine the alternative against the noble earl of Tankerville. The necessity of removing one of those noblemen, and the vacancy which must follow from such removal, had afforded an opportunity of accommodating a noble lord (Hawkesbury) who had been alluded to, and to whom gentlemen might allude as often as they pleased, in the way in which they did, so long as he was persuaded that every favour which had been conferred upon that noble person, since he had any share in his Majesty's councils, had been fully earned by the most able and meritorious services; but the vacancy was not made for the sake of accommodating lord Hawkesbury, as it was evident that the two noble lords could not possibly continue to act together; and whether the earl of Tankerville or lord Carteret had been made removed, it would have no difference with respect to lord Hawkesbury; for, in either case, there would have been an opening for him. Beside, there certainly was nothing personal intended against the earl of Tankerville; for, at the very moment of his removal from the Post-office, there was an arrangement set on foot for the purpose of accommodating him, but his lordship would not listen to it.

With respect to the charge against lord Carteret, of the annual allowance made to Mr. Treves out of the salary of Mr. Lees, it certainly was an abuse, and one which that House ought not to countenance. He was sorry to say it was an abuse to be met with in many other public departments; but that was certainly no excuse, as it was by no means a fit way of providing even for a deserving servant of the public, much less a person who had no claims upon the state; for, if the salary of an employment were too great for the duty, it ought to be reduced, and, if it were not too great, it was injustice to make it less, by charging it with a provision for a person who did not do his duty. Still, there were circumstances in which it might be allowable, as where a person became superannuated, and incapable of doing the duty of his office, it was but natural to grant him a support out of the income of his successor, and that successor might think himself sufficiently compensated for the smallness of his present profits by the prospect of a future increase, by the falling in of the pension. This was the state of the case with respect to Mr. Barham and Mr. Lees, and with that part of it only had he any concern. Notwithstanding the indignation which the noble earl might now feel, and which it appeared that he had so very amply communicated to the hon. gentleman, he remembered the time when the noble earl had thought much more mildly on the subject, as he could take upon him to say, from his recollection, that the noble earl had been extremely urgent with him to consent to an allowance to Mr. Lees, as a compensation for the sum paid by him to Mr. Treves. But, upon the whole, these circumstances, as well as those which related to Mr. Hutchinson and Mr. Molyneux, although improper, were not attended even with any imputed circumstance of corruption on the part of lord Carteret, nor did he imagine that any hon. gentleman wished to carry the business so far as a censure against that nobleman. On the contrary, he was fully satisfied, that he himself was the only object of hostility. For all these reasons, he should most heartily concur in voting for the previous question.

Mr. *Sheridan* observed, that it was extremely natural for the right hon. gentleman, notwithstanding his concern for lord Carteret, to take notice of that part of his hon. friend's speech first, which more immediately related to himself. The right hon. gentleman had, with great apparent firmness, animadverted upon what his hon. friend had said, but the right hon. gentleman must excuse him if he took the liberty of asserting that the right hon. gentleman did feel, and severely feel the reprehension of his hon. friend. With regard to the words which the right hon. gentleman had quoted of his hon. friend's first speech in that House, the right hon. gentleman had not quoted his hon. friend correctly; for, if he had, the House would have seen that his hon. friend was by no means chargeable with inconsistency. His hon. friend had not professed personal respect for the right hon. gentleman, but only said, that he gave him credit for the goodness of his intention in the measures which he brought forward, and, therefore, he hoped the right hon. gentleman would give him credit, when he asserted, that in opposing the Commercial Treaty with France, his motive was honest. This was a true description of what had then passed. With regard to any thing which his hon. friend had said, that might be improper, when he considered the talents and the ability that his hon. friend had

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shown at his outset and ever since, though he must, undoubtedly, be called a young member, yet he would agree with the right hon. gentleman, that such a young member was as little pardonable for any error as the oldest member of the House. On the present occasion, however, he must contend that his hon. friend had not merited the reproof, which the right hon. gentleman, the veteran statesman of four years experience, the Nestor of twenty-five, had been pleased to bestow on him.—Mr. Sheridan, now proceeded to the main question, and reminded the House that he had opposed the Office-Reform Bill, when originally brought in as a Bill of ostentation and parade, rather than of solid advantage and utility; and he was now convinced that it had been what he then described it to be, since it appeared from what the hon. gentleman (Mr. Baring) had said, that the commissioners had begun at the wrong end, and gone in search of abuses where no abuses could have existed. The hon. gentleman had said, that the commissioners went first into the office of the Old Board of Trade;—a curious beginning—to search what abuses had been formerly practised in an office which no longer existed! They had next gone into the Secretaries of States offices; —the offices of all others least likely to be pregnant with abuse. If any abuse was there, it was, that the deputy Secretaries of State, whose duty was arduous and important, were by no means sufficiently paid. But it was in vain to say what the commissioners had done since the hon. gentleman confessed himself unfit to be a commissioner, for he had expressly told the House, that it had cost him more trouble to write a single line of a report, than it would take him to pen an entire report of the commissioners of accounts. The Bill, Mr. Sheridan said, he had never considered as an exclusion of all future inquiry; and yet from the right hon. gentleman's argument, he seemed so to regard it; for, notwithstanding that the facts stated in the opening of the present subject by his hon. friend had all of them been established by evidence, yet the right hon. gentleman was for leaving them for the correction of the commissioners, when they should have leisure to attend to them. It appeared, indeed, that the right hon. gentleman had surrendered his understanding when he brought in the Bill, and was determined to hear only with Mr. Baring's ears, and to see with the eyes of sir John Dick; and, therefore, he could not pay the least attention to the representations of the earl of Tankerville. He read a clause from the Bill to show, that the transactions relative to the 350*l.* and the 200*l.* as well as the affair of the agency to the Helvoetsluys packets, came directly within the meaning of the clause, declaring, that any persons guilty of such practices should be incapable of serving his Majesty in any civil capacity in future. The right hon. gentleman (Mr. Pitt) appeared to plume himself upon his political connexion with lord Hawkesbury, and, sacrificing to this, he had dismissed from office the earl of Tankerville, and retained the lord Carteret, although by the Office-fee Bill, the latter, on the present charge being proved, must have been disqualified from holding any office under government. But this was done to reward Mr. Jenkinson's public services, secret services, and services in that House. Indeed, his many eminent services could not be forgotten by the right hon. gentleman, as on a very recent occasion, he had overturned his own favourite measure, by destroying the Irish propositions. This was one of the secret services for which he had so meritoriously received a recompence.

Mr. *Rolle* said, that he did not intend to say a word in the debate, but the hon. mover had described lord Hawkesbury as having given the right hon. gentleman his situation, and added that he could dismiss him with a nod. Such language was neither decent nor respectful to the House. With regard to the right hon. gentleman's coming into office, he could speak; and as to his dismission, he hoped it would be long enough before he should have to regret so unfavourable a circumstance. The right hon. gentleman had come into office on the voice of the People. He himself had carried a congratulatory address to the Throne on that event, and similar addresses had been sent up from all parts of the kingdom. As to the abuses spoken of in the Report, they appeared to him to be too insignificant to require the interference of that House. The commissioners under Mr. Pitt's Bill were the properest persons to correct them. With regard to the misunderstanding between the two noble lords lately at the head of the Post-office, as far as he understood the matter, it was a contest between them which should have the largest share of the loaves and fishes. As a proof that Mr.

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Pitt had done more than make professions of purity and reform, Mr. Rolle mentioned the saving of colonel Barré's pension to the public, and said that other acts of the same kind had characterized his conduct. He recommended the abolition of the office of joint Post-master-general, as one person could do all the duty of the office.

Mr. *Martin* said, he was equally stranger to both the noble lords, but the abuses in the Post-office were such as called for immediate remedy; and as an hon. gentleman had said it would be a considerable time before the commissioners under the Office Reform Bill could attend to the Post-office abuses, he should vote for the original question.

Mr. *Baring* appealed to the House, whether he had said any thing like what the hon. gentleman had stated.

Mr. *Fox* said, that he thought the whole proceeding extraordinary and with regard to his hon. friend who brought forward the inquiry, most unfair and unhandsome. If it was meant to do nothing, why did they suffer the Committee to be appointed at all? If they really came to no resolution, it would be plainly saying, "we sent you and your friends on a fool's errand, and now you may take your labour for your pains." The plain meaning was, that when the right hon. gentleman consented to the committee, he thought the hon. gentleman could not prove his facts, and that it would end in disgrace to those who desired an inquiry. Hence the loud call for a report; and, now that the hon. gentleman had made good his charges, and presented a report, the House would disgrace itself, if it passed it by unnoticed and in the manner proposed. Mr. Fox took notice of what Mr. Rolle had said relative to Mr. Pitt's having come in by the voice of the People, and observed, that it was rather strange to prove a former fact, by a subsequent proceeding. The truth was, his Majesty had been advised by some person not ostensible, to take the object of his private choice, in direct contradiction to the sentiments of the House of Commons, and make him minister. That was one of the grand constitutional questions on which he, and those who acted with him, differed from the other side of the House. Mr. Fox added, that he had been sometimes accused of holding rather too high language with regard to the minister's power of dismissing, when he pleased. There were however, some cases in which that power might be so far abused, as to make it fit matter for parliamentary inquiry, and the dismission of the earl of Tankerville upon the reasons assigned for it, appeared to be one of them. He raised an argument on the distinction between a minister's giving a person an office, when the accepting it was a favour done him, and his taking away an office, when the suffering a person to keep it was a favour done to that person by the minister, and applied it to the creating the earl of Tankerville joint Post-master, when Mr. Pitt first came into power, and his taking it from him to accommodate lord Hawkesbury, when it was no longer hazardous to boast of the friendship of the latter. He reminded the House, that the right hon. gentleman had, for the first time, publicly boasted of the services of the noble lord; and he remarked, that in the day of danger and of contest, that noble lord's name was never ventured to be mentioned; and though administration enjoyed the assistance of his vote, they at that time thought it not prudent to declare it with an air of triumph. Now that the hour of greater safety was arrived, they chose to divide the spoils gained by their former battles, and to give the noble lord an ample share. He examined lord Hawkesbury's claims to praise, and said, exclusive of those parts of his conduct, which the noble lord, when Mr. Jenkinson, had uniformly denied, but which they knew to be true, his public life had been as little distinguished by acts of meritorious service of any kind, as that of any man living, although within the last twenty years every administration, two only excepted, had deemed his being with them a matter of indispensable moment. He replied to what Mr. Pitt had said of Mr. Grey's being a party man, and declared that the hon. gentleman was not of that description, but he hoped by degrees he might become a party man. He defended the term, and maintained, that as long as there were great constitutional questions, respecting which there were differences of opinion, to be a party man was to act most honourably. In this country there were known differences of opinion on great questions, and on none more than the manner in which the right hon. gentleman came into office. Mr. Fox declared that he should vote for the original question, although he certainly had not advised the bringing the subject forward, nor should he have recommended it, because he did not think it of a size equal to the hon. gentleman's character and importance.

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Mr. *Grey* said, that he could not avoid rising in reply to the observations of the Chancellor of the Exchequer respecting his sincerity, his consistency, his inexperience, and his holding language not fit to be used in that House. With regard to the first, he denied that he had used the words imputed to him; what he had said in his first speech was, that his opposition to the Commercial Treaty arose from no motive of personal dislike to the right hon. gentleman; that he gave him credit for the goodness of his intentions, and hoped that the right hon. gentleman would in return give him credit, when he asserted that his opposition originated in his sense of duty as a member of parliament. Mr. Grey declared, that if on any future occasion a compliment to the right hon. gentleman should suggest itself to his mind, he would studiously suppress it, to avoid the risk of being afterwards charged with insincerity. Perhaps, since the day to which the right hon. gentleman had alluded, his opinion of him had a little altered, and that not from what had passed while he was abroad, but since he had been a nearer witness of his conduct. With regard to his having, from his exceeding great inexperience, made use of language unfit for that House, he could only say, that he had more than once heard the right hon. gentleman hold language there, both to him and to others, which out of that House would not be borne. Mr. Grey added, that he trusted that his noble relation and himself stood fully acquitted of having brought forward any charges which they had not been able completely to substantiate, and that being the case, it was matter of indifference to him what was done with the Report: he did not mean to take the sense of the House on the occasion.

The previous question was carried; and after that, a motion was made, "that the farther consideration of the Report be adjourned to that day three months." This was likewise carried.

Debate in the Lords on the Insolvent Debtors Bill.] May 22. The order of the day being read for the House to resolve itself into a committee on the Insolvent Debtors' Bill,

The Duke of *Norfolk* stated, that there were above 3,000 debtors confined in the different prisons of the kingdom, the loss of whose labour was a material injury, not only to their families, but to the public. That circumstance he considered as so strong an argument in proof of the necessity of the Bill, that he thought it unnecessary to take up their time by any farther discussion of the subject. His object was to set the unfortunate, and not the fraudulent, debtor at liberty. The Bill therefore contained several clauses for the prevention of fraud and imposition; but if any farther restraints should be thought necessary, he would most willingly either introduce or receive clauses for that purpose in the committee, and so modify the Bill, as to render it acceptable to the House, and salutary in its effects with regard to the public.

The *Lord Chancellor* said, that no man would merit a seat in that assembly, or a seat as a magistrate in any court whatever, who could prove insensible to the miseries of the numberless persons suffering in prison, or so malignant an enemy to the happiness of mankind as to feel a satisfaction in their distress; but to act blindly, unguardedly, or capriciously on either principle, was equally unjust, unwise, and impolitic. The learned lord entered at large into the argument of the inexpediency of acts of insolvency, as well as the manifest injustice of breaking in upon that power of coercion of payment with which the law had armed the creditor for the security of his property. If there was to be such a thing as imprisonment for debt, it ought to continue unchecked and unrestrained, unless in cases of flagrant oppression and unnecessary cruelty. The general idea that humanity required the intervention of the legislature between the debtor and creditor, was a false notion, founded in error, and dangerous in practice. He who had frequent opportunities of knowing and witnessing the temper of creditors, seldom found cause of complaint on the ground of their severity, but, on the contrary, the lenity and kindness of the collective body of creditors who daily came before him, were uniformly great, warm, and abundant. He had, in aid of his own observation, a great professional authority (whose absence, and the cause of it, every man must lament) for declaring, that for every twenty debtors there scarcely ever appeared in the courts of law one cruel creditor. Those, therefore, who imagined the reverse to be the fact, were egregiously mistaken.

It had been said, that the laws respecting debtor and creditor, in mesne process and in execution, stood in need of revi-

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sion with a view to alteration and amendment: perhaps the assertion was in some degree founded, and he had no scruple to say, that he should be extremely willing to pay every possible attention in his power to the consideration of so weighty a subject; but he earnestly conjured their lordships not to countenance such breaches of faith with creditors as occasional insolvent bills. With regard to the argument that there were 3,000 debtors in the different gaols, possibly there might be that number; but the number that could be stated under the circumstances of an insolvent bill pending in Parliament, was not the number that ought to be looked to as any guide to that House in fashioning their opinion with respect to the Bill under consideration. The number of prisoners in a jail, including their families and attendants, was one number; the number of actual prisoners, either on mesne process or in execution, was another; and the number of prisoners on the speculation of an insolvent bill was a third number; so that little argument was to be drawn from that consideration worthy of much reliance. A much greater evil than the loss of liberty was the dissipation and corruption that prevailed in all our prisons; to that their lordships had much better direct their attention than to the defrauding the creditor of his chance of recovering his property by letting loose his debtor, and taking from him the hopes of payment. With regard to the Bill under consideration, it was the most objectionable of the kind that he had ever seen: in one part it interfered with the bankrupt laws, and took out of the hands of the persons intrusted with the execution of those laws, all the causes of bankruptcies now pending, and put them into the hands of justices of the peace. He was not so vain as to suppose that there were not some justices full as competent to do that business as he was, or any other professional man; but, in general, justices of the peace could not execute such offices so well as those whose whole lives had been spent in the practice. The Lord Chancellor drew the distinction between debtors in respect to trade, and debtors of another description. He spoke of the ancient notion under which a tradesman who could not pay his debts was punishable. Afterwards, as the principles of trade became better understood, more enlarged ideas prevailed, and the bankrupt laws were instituted for the relief of those traders who had, through unforeseen misfortunes, incurred debts to a greater amount than their capitals, and the sums owing to them, would satisfy. These laws had ever been a generous provision, as well as a wise protection, for cases of that description. On the other hand, those who ran in debt, knowing that they never should be able to pay, were certainly fit subjects of that severity which the law, as it stood, empowered their creditors to exercise towards them. The present Bill made no sort of distinction between the two descriptions, but provided equally for the liberation of all debtors; and consequently, being indiscriminate in its object, could not possibly be just.

With regard to the clause which related to commissioned and non-commissioned officers, he was very ready, he said, to assist to extend the arm of the public to the relief of that deserving description of men; but then he could not consent to extend the arm of the public to their relief at the expense of individuals. He spoke of annuitants for less than 1,000*l.* being included in the Bill as a most improper matter; observing, that though the limitation was to a sum less than 1,000*l.* per annum to any individual, yet the debtor might have 10,000*l.* a year to pay, if it was divided in payment to eleven annuitants. Another part of the Bill that he mentioned with some degree of indignation was, its comprehending within the objects to be relieved by it, traducers of private character, persons found guilty of the most atrocious offences against society, whose punishment fell greatly short of the degree of their enormity. If an information were filed against such wretches, they had the impudence, he said, to threaten a justification; if, on the other hand, an action was brought, and damages given inadequate in every consideration to the proportion of their guilt, they threw themselves into the King's-bench prison, and trusted to an act of insolvency for relief. The clause relative to fugitives beyond sea also challenged his reprehension. He considered such clauses as affording encouragement to bad-minded men to get into debt, go abroad, and after having there spent in dissipation, and at their ease, all the remains of their fortune, or rather of the property of others which they carried off with them, to come back and take advantage of an insolvent act, to enable them to begin their career of fraud over again. After objecting in like manner to

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some of the exceptions contained in the Bill, and condemning almost every part of it, he spoke of the Lord's Act, upon which, he said, all such bills as the one under consideration was an intrusion. He had been prevailed upon two years ago, by a noble earl (of Effingham) who had argued with as much gravity and wisdom on the subject, as he ever heard any man argue with, to consent to alter the sum stated, as the limitation in that Act, from 100*l.* to 200*l.*, which, considering the different value of money now, to what it was when the Lords' Act first passed, was not unreasonable. He stated the history of the Lords' Act, showing, that it went on the principle of the *Cessio Bonorum* in use in Scotland, and he drew from thence an argument against the proposed Insolvent Bill. Another argument urged by him against the Bill was, the preamble of the last Insolvent Act, passed soon after the riots of 1780. That preamble was not, he said, his drawing, but that of a much abler man, and the plain meaning of it was, an intimation to creditors, that it was not very likely that any more insolvent bills would be passed. Now, though he would admit that one parliament could undo what a preceding parliament had done, he asked their lordships, whether they were willing so wantonly to trample on the authority of a former act, and break the compact, which by that preamble they had, as it were entered into with creditors?

After a variety of arguments immediately opposite to the Bill before the House, he returned to a discussion of the law of imprisonment, and of the management and conduct of our prisons. He said, he had lately had the honour of a conversation upon the subject, with a gentleman who was of all others, the best qualified to treat of it, Mr. Howard, whose humanity, great as it was, was at least equalled by his wisdom; for, a more judicious, or a more sensible reasoner upon the topic, he never had conversed with. His own ideas had been turned to solitary imprisonment, and a strict regimen (as the constitution and habit of the living of the debtor might require), as a punishment for debt; and that notion had exactly corresponded with Mr. Howard's, who had agreed hith him, that the great object ought to be, when it became necessary to seclude a man from the rest of society and imprison him for debt, to take care that he came out of prison no worse a man, in point of health and morals, than he went in. There was a part of the Scotch law, which he much admired, and that was, the punishing those who were concerned in advising a tradesman to turn fraudulent bankrupt, and aiding and assisting him in effecting such a bankruptcy, with more than ordinary severity. That idea he meant particularly to attend to in the project, the mere outlines of which he had, upon the spring in his mind for the moment, rather than from any digested plan or mature reflection, taken the liberty of crudely suggesting to the House. Another matter which he had in contemplation was, to oblige the creditor to allow the groats agreeable to the Lords' Act, and increase them, if the constitution and habit of his debtor should require it. In order to indemnify the creditor for this, he meant to enable him to take out two processes at once (what was called the writ of *fieri facias*, and the writ of *capias)* and to allow the creditor to add the groats to the original debt, for which the estate of the debtor, either in possession, reversion, or expectancy should be liable. Above all things, a strict regimen, solitary confinement, and care to avoid corruption of morals should be the object; Mr. Howard having assured him that the dampest dungeon in the most loathsome gaol he had ever entered abroad, was nothing to the corruption and dissipation which prevailed in almost every one of our prisons to the disgrace and scandal of the kingdom. Mr. Howard had told him in proof of this, that a quaker called upon him to go with him to witness a scene, which, if he went singly, he feared would be too much for his feelings. It was to see a friend in distress, a person who had lately gone into the King's-bench prison. When they came there, Mr. Howard said, they found the man half drunk, playing at fives. They were greatly shocked at the circumstance; he asked him to go to the coffee-room and take a glass of wine. The man said, No: he had drunk so much punch, that he could not drink wine; however, he would call in at the room and take a glass with them before they went. Mr. Howard and his friend came away with a very different sentiment from that which they had entertained when they arrived at the prison, but with a sentiment not less afflicting to a real friend. The Lord Chancellor commented upon this story, and, after urging several additional arguments against Insolvent Bills in general, and the Bill before the House in particular, con-

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cluded with moving, "That the Bill be committed on the 19th of June."

Lord *Rawdon* confessed that he laboured under peculiar disadvantages in having to follow the noble and learned lord; but, as he saw the policy of imprisonment for debt in a very different light from that in which the noble and learned lord had viewed it, and thought the abuse of the laws authorizing such a practice, matter of serious complaint, he must trouble the House with his reasons for entertaining such an opinion. The clauses of the Bill, as it stood (he admitted) were extremely defective, and therefore, he wished to go into a committee to amend these clauses. He would not detain the House by enumerating all the various statutes which had passed, from the earliest periods of our history on the subject of imprisonment for debt; but merely state the gradations of the modes of proceeding as differently adopted at different periods. He then mentioned that, originally, so much attention had been paid to the usefulness of each individual to his family and the public, that, whenever his property was seized, his utensils of agriculture were deemed unattachable. Having stated this, he said that the writ of *distringas*, was the first process, and that was multiplied till all the property of a debtor was seized.—Afterwards the writ of 'capias ad respondendum' was added. And this, in his opinion, was a severe and oppressive process. He next traced the custom up to Charles the 2d's time, when, in consequence of the change of tenures an alteration was made in the mode of pursuing the debtor, much to his disadvantage, and that mode had been continued to the present moment. He pointed out how liable the law was to abuse, as it stood at this day; and said that although he admitted Insolvent Debtors Bills to be at best but bad remedies, yet that such remedies must be applied, from time to time, as long as the law remained in its present defective condition. He complimented the Lord Chancellor on his intimation of his readiness to take part in a revision of the law, in the case of imprisonment for debt; but, in the mean time, he declared, he felt it to be his duty to support the Bill then before the House. It was the cause of humanity, since the noble duke had stated, that 3,000 debtors were locked up in prisons, and surely the labour of so large a body of subjects was a matter well worthy of the most serious consideration.

The Earl of *Hopetoun* supported the Bill, and declared, that he would not consent to have it gotten rid of by a shove off for a month, to a period when it was well known Parliament would not be sitting. He appealed to the humanity of their lordships, whether they would permit a Bill, sent up from the other House for the relief of so many of their fellow subjects to be lost. At least, he hoped they would suffer it to go into the committee.

Viscount *Stormont* said, that he had not made up his mind to the question, whether a bill of insolvency might not be so framed, as to make it fit to pass that House, and therefore he should not vote at all. With regard to the Bill before the House, it was in its present form, the most wild, extravagant and improper of any which he had ever seen on the subject. He pointed out objections to various parts of it, and entered into a comparison of the Cessio Bonorum of the Scotch law, with the feeble imitation of it contained in the Bill. He declared, that the clause about fugitives was highly objectionable, and that its clear purport was to encourage debtors to get away with their creditors' property; since, if they chose to breathe the pure air of France, at Bologne, or in any other town, and get intoxicated with French wine, as he himself had seen them do, instead of going into gaol, they were offered an indemnity by the Bill. He spoke in terms of high compliment of the reform of the laws of imprisonment for debt, at which the Lord Chancellor had hinted; and said that though it had been no more than a rough sketch, it was a sketch by the hand of a master, who had it in his power to complete the business, and he should consider it as a pledge, that the learned lord would do it at some future period, when his leisure served. He reprobated all Bills of insolvency as opening a door to gross fraud; and after hoping that the Bill would not pass in its present shape, he concluded with declaring, that ludicrous as it might appear, he had heard it seriously argued, that it was a violation of the liberty of a free born Englishman to oblige him to go out of prison.

Lord *Kinnaird* said, that he wished well to the Bill, and was glad to have heard many of the arguments of the learned lord on the woolsack, which amounted to an admission of the necessity of such bills passing, till the reform suggested was adopted. The House divided: Contents,

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12; Not-contents, 23. The Bill was consequently lost.

King's Message respecting the Prince of Wales's Debts.] May 21. Mr. Pitt presented the following Message from his Majesty:

"GEORGE *R.*

"It is with great concern his Majesty acquaints the House of Commons, that, from the accounts which have been laid before his Majesty by the Prince of Wales, it appears that the Prince has incurred a debt to a large amount, which, if left to be discharged out of his annual income, would render it impossible for him to support an establishment suited to his rank and station.

"Painful as it is at all times to his Majesty to propose any addition to the heavy expences necessarily borne by his people, his Majesty is induced, from his paternal affection to the Prince of Wales, to recur to the liberality and attachment of his faithful Commons for their assistance on an occasion so interesting to his Majesty's feelings, and to the ease and honour of so distinguished a branch of his royal family.

"His Majesty could not, however, expect or desire the assistance of the House, but on a well-grounded expectation that the Prince will avoid contracting any new debts in future. With a view to this object, and from an anxious desire to remove every possible doubt of the sufficiency of the Prince's income to support amply the dignity of his situation, his Majesty has directed a sum of 10,000*l.* per annum to be paid out of his civil list, in addition to the allowance which his Majesty has hitherto given him; and his Majesty has the satisfaction to inform the House, that the Prince of Wales has given his Majesty the fullest assurances of his firm determination to confine his future expences within his income; and has also settled a plan for arranging those expences in the several departments, and for fixing an order of payment under such regulations as his Majesty trusts will effectually secure the due execution of the Prince's intentions.

"His Majesty will direct an estimate to be laid before the House of the sum wanting to complete, in a proper manner, the works which have been undertaken at Carlton House, as soon as the same can be prepared with sufficient accuracy, and recommends it to his faithful Commons to consider of making some provision for that purpose."

As soon as the Message had been read,

Alderman *Newnham* said:—I confess, Sir, it is with considerable exultation that I find that none of those predictions or prognostications, which, as an hon. gentleman observed, were chorussed all around me on a former occasion, have in the smallest degree been realized. I do not pretend to arrogate to myself that any thing which I have done has promoted this happy event; but it is my boast that nothing I have done has prevented it. Amidst the general joy that glows in every breast that has thought upon the subject, I receive the most heart-felt satisfaction. I most sincerely rejoice that the Prince of Wales, whom I admire and revere, will obtain relief in a mode, I am sure, far the most satisfactory to him. I rejoice, that by this his Majesty will have his comfort and his glory secured and promoted; and I most sincerely hope, that no event may ever happen to interrupt their felicity, but that paternal love and protection on the one part, and filial gratitude, duty, and affection, on the other, may flourish and increase for the rest of their lives.

Mr. *Rolle* observed, that he was extremely happy to find that the business was at last brought to that shape and form; that he would meet it fairly; but as he did not wish to anticipate the debate, he would merely say, that he was of opinion that the list of the debts of his Royal Highness ought to be laid upon the table, that other gentlemen, as well as himself, before they laid additional burthens upon their constituents, might know on what ground it was, that they were called upon to vote away the public money.

Mr. *Pitt* answered, that an estimate of the debts of his Royal Highness, which had been examined into, was making out, in order to its being laid upon the table.

The Message was ordered to be taken into consideration on the 24th.

May 24. The order of the day being read,

Mr. *Pitt* rose and observed, that nothing could more fully prove his Majesty's affection for his subjects, than the regret which he at all times felt, when obliged to make any application to parliament which could tend to the imposition of new burthens upon the people. But, at

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the same time, he was himself persuaded that there was no burthen which that House and the public would so cheerfully acquiesce in, as one which tended to promote the comfort and interest of any part of the royal family, particularly so distinguished a branch of it as the Prince, who was the object of the present application. He was convinced that every gentleman would rejoice with him that the business came forward in its present shape and channel, instead of any other, as there could be none so correspondent to the constitution, so respectful to the illustrious family who were concerned, nor so consonant to the interests and real dignity of the Prince himself. His Majesty, while he thus complied with the wishes of his Royal Highness, had not been unmindful of the ease and interests of his people; and the Prince had consented to such a system of payment as should secure his expences from exceeding his income. His Majesty had taken such measures as would prevent the possibility of any future application to parliament on this subject, by a permanent addition to the Prince's establishment without recurring to parliament for the money, and by paying it out of his own civil list. With regard to what was past, his Majesty had done all which lay in his power for the satisfaction of the House, in submitting to their inspection a state of the Prince's affairs, from which they might judge of the necessity there was for this relief. Mr. Pitt added, that he imagined gentlemen would not think of instituting any very strict scrutiny into the state and nature of that account, not only out of personal respect to the exalted character whom it concerned, but because it was a circumstance which never could occur again, so long as his Royal Highness continued in his present situation. He then moved "That an humble Address be presented to his Majesty, assuring his Majesty how sensibly this House, at all times, feels the gracious proofs of his Majesty's constant attention to the interests of his people; particularly in the directions which his Majesty has given, for making an additional allowance to his royal highness the Prince of Wales, out of his Majesty's civil list, in order to remove every possible doubt of the sufficiency of his Royal Highness's intention to support amply the dignity of his situation, without occasioning any increase to the annual expense of the public: That it is with the greatest satisfaction this House learns, that his Royal Highness has given his Majesty the fullest assurances of his Royal Highness's firm determination to confine his future expences within his income, and has settled such regulations as his Majesty trusts will effectually secure the due execution of his Royal Highness's intention: That his Majesty may depend on the zeal and affectionate attachment of his faithful Commons, to afford his Majesty the assistance he desires for the discharge of his Royal Highness's debts, and that in full reliance on the assurances which his Majesty has received, this House humbly desires that his Majesty will be graciously pleased to direct the sum of 161,000*l.* to be issued out of his Majesty's Civil List for that purpose, and the sum of 20,000*l.* on account of the works at Carlton House, as soon as an estimate shall be formed with sufficient accuracy of the whole expense for completing the same in a proper manner, and to assure his Majesty that his faithful Commons will make good the same."

The Address was agreed to *nem. con.*

Debate in the Commons relative to the Right of the Sons of Scotch Peers to represent Scotch Boroughs or Counties.] May 23. This day a question respecting the construction of the Act of Union, was agitated in the House of Commons. It arose in consequence of the succession of the earl of Wemys to that earldom, whose eldest son, Francis Charteris, lord Elcho, represented the boroughs of Lauder, &c. in Scotland. By the ancient parliamentary law of Scotland, the eldest sons of peers could not sit in the House of Commons; and by an article in the Act of Union it is provided, that the two kingdoms should participate reciprocally in the benefits, advantages, rights, and immunities of each other. In pursuance of his notice,

Sir *John Sinclair* rose. He declared, that he had no personal motive for bringing forward the motion which he was about to make, least of all did he mean any thing disrespectful to the noble lord opposite. He considered the matter as involving considerations interesting to the constitution of that House, and to the preservation of the rights of the Commons of Scotland, as settled by the Union. If he was not persuaded that the motion which he meant to make, stood upon the clearest and most self-evident grounds of

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parliamentary law and precedent, he would not venture to intrude it upon the consideration of the House. His motion was, "That the Speaker do issue his warrant to the Clerk of the Crown, to make out a new writ for the electing a Commissioner to serve in this present parliament, for the district of Burghs, of Lauder, Haddington, Dunbar, North Berwick, and Jedburgh, in the room of Francis Charteris, esq. jun. of Aimsfield, now become the eldest son of a peer of Scotland, and thereby incapable of representing the said district in this House." But before he made it he wished that the precedents on which he grounded it might be read from the Journals. He accordingly desired the clerk to turn to the proceedings of the House, December 3, 1708, in the case of lord Haddo, and also, the proceedings relative to Alexander Irvine and others the 25th and 27th Nov. of the same year. He next desired the case of lord Charles Douglas, in 1755, to be read, and then made his motion.

Viscount *Beauchamp* argued in favour of lord Elcho, contending, that in point of reason and good sense, he ought to keep his seat. He quoted the Act of Union, which enacted from that time forward, that the two kingdoms should participate reciprocally in the benefits, advantages, rights, and immunities, peculiar to each. Upon this quotation he rested an argument, that to oblige the noble lord in consequence of his having become the eldest son of a peer of Scotland, to vacate his seat, would be to violate the spirit and meaning of the Act. With regard to the precedents, they were all cases which had occurred in times of great party violence, and ought not to be relied on as obligations indispensable by the House. In proof of this, he read an extract from Burnet's History, in which the bishop, speaking of the parliamentary transactions of 1708, says, "the Court and the Whigs had joined, and were determined to carry every thing their own way; the Whigs unblushingly decided elections without regard to justice, or any other consideration but their own party feelings against the Tories." With regard to lord Haddo, it was notorious that he was a person particularly obnoxious to the powers then in being, and that circumstance considered, the proceedings upon the Journals were not to be wondered at. His lordship treated the other precedents as of little avail; and after animadverting on the precedent of lord Johnstone, he went into general arguments to prove, that till the eldest sons of Scotch peers had the liberty of sitting in parliament for Scotch counties and boroughs, in like manner as he and others, the eldest sons of English peers had a right to sit in the House of Commons, representatives of English counties and boroughs, the reciprocity of advantages stated in the Act of Union, was not fulfilled. He hoped, at least, that the House would not, on a sudden, deprive the noble lord of his seat, but would suffer him to continue to sit a little longer among them, and at the next general election, the question, which he contended had never been truly tried, might come fairly to trial before Mr. Grenville's committee. He concluded with moving, "That the debate be adjourned till that day se'nnight."

Sir *James Johnstone* said, that the noble lord had asserted that his ancestors were tories, whereas the very reverse was the case. They were all of them notorious whigs. Lord Johnstone was a whig, and so were his successors. The noble lord had talked of three precedents, but there were six, which he enumerated, and the noble lord had argued against them. What signified an argument against the law of the land? If the noble lord wished to alter the law, let him bring in a bill. Previous to the Union, it had been the law of the parliament of Scotland, that the eldest sons of the peers of Scotland should not sit in that parliament; and the reason was obvious, the Scotch peers had too much power already, and that would have given them a great deal more. At that time it was not unusual, when a great lord wanted to collect a powerful body of vassals to achieve any design, to send out a lighted torch, and if any man refused to take and bear it, to hang him up. It was highly necessary, therefore, to curb the growing power of the peerage. Sir James said, that he might at one time or other be a peer of Scotland himself; the case was not impossible, and then, most probably, he should be an advocate for the rights of the peerage; but, as long as he had a seat in that House, he should think it his duty to stand up in behalf of the Commons of Great Britain.

Mr. *Dundas* contended, that the motion stood upon broad constitutional grounds, and that the precedent of 1708 was unanswerable. He reminded the House, that the case of lord Haddo, the proceedings thereupon, and the clear distinct resolu-

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tions to which the House then came, all occurred within a year of the settlement of the Union of the two kingdoms, at a time whilst the true intention of the parties who negociated it was within the recollection of every body, and consequently that the resolution was to be considered as the rule of conduct laid down by the House, upon the most unquestionable principles. The noble viscount had talked of lord Haddo's being a tory, when the fact was notoriously otherwise. Was the earl of Sunderland a tory? Was the earl of Aberdeen a tory? And all the great men of Scotland of that day? most certainly not. The fact was, they formed a grand combination, to bring the question to a decision, and it was then fully decided. With regard to suffering the noble lord opposite to continue to sit till the general election, in order that the question might be then tried before Mr. Grenville's committee, the noble viscount need not wait till then. Let lord Elcho go and offer himself for Lauder as soon as the writ was ordered, and if he was returned he might then try the question before the committee, early in the course of the ensuing session; for, undoubtedly, he would find a competitor. He was clear that the noble lord was at that time guilty of a breach of privilege in sitting where he did.

Lord *Elcho* contended there was no precedent for dispossessing the son of a Scotch peer of his seat, when he had been legally elected, and his title had devolved to him pending the session of a parliament.

Viscount *Maitland* complained of the injustice of entailing upon the sons of Scotch peers a disability under which they accidentally laboured with regard to their own parliament at the time of the Union, and reminded the House, that there had been a period, when the sons of English peers were, in like manner, disabled from sitting in that House. He observed, that in order to justify such a gross partiality, gentlemen were obliged to resort for precedents to transactions which had occurred previous to the Act of Union. He denied that the reciprocity of advantages stated in the Act of Union had any existence, while the eldest sons of Scotch peers could not sit for Scotch boroughs and counties, in like manner as the eldest sons of English peers sat for English boroughs and counties, and declared that he would, next session, bring in a bill, to put both on an equality.

Mr. *Anstruther* trusted the noble viscount would consider what he was about to do. It behoved the representatives of the boroughs and counties of Scotland as well as of England, to reflect seriously before they gave their consent to any bill, the object of which was to alter the Act of Union.

The motion of adjournment was negatived. Upon which lord Elcho withdrew. Sir John Sinclair's motion for the new writ was then put, and carried.

Debate in the Commons on receiving the Glasgow Petition for a Reform in the Royal Boroughs of Scotland.] May 28. Mr. *Sheridan* begged leave to call the attention of the House to the motion which he had, several days before, promised concerning the internal reform of the Royal Boroughs of Scotland. He would not, at that late period of the session, enter largely into the subject, as the gentlemen entrusted with the direction of the new system for the better government of the boroughs, had no idea of its being fully canvassed previously to the next session. All that he therefore meant to propose was, for leave to present to the House the various petitions in favour of the measure. That which he held in his hand was from the inhabitants of Glasgow, containing near 1500 signatures of men of the highest respectability and independence. He, however, was sorry to observe, that he had been informed, from authority, that the prayer of the petitioners could not be considered this session, the time of receiving private petitions having expired, and this being supposed to come under that description. Although he very much respected the source from whence this opinion was derived, yet he was free to say, that a petition, containing the signatures of such a numerous class of men, certainly could not, strictly speaking, be considered as a private Petition, but was, in every sense of the word, a public one, and consequently demanded the attention of parliament. He read an extract from it, which stated the great hardships which the people of Scotland suffered from the present corrupt government of the royal boroughs, particularly so far as related to the management of the revenue; that acts of peculation existed, and ought to be remedied; and that the petitioners prayed that the House would take the subject into consideration. He concluded by moving for leave to present the Petition.

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The *Speaker* considering it in the light of a private petition, gave his opinion against the motion.

Mr. *Fox* said, that notwithstanding what had been advanced by the Chair, he thought the Petition of as public a nature as any that had ever been presented. He applauded the measure of reform; and so far as his investigation had proceeded, he thought it claimed the concurrence of parliament. He had only heard one side of the question, but such convincing arguments had been adduced that he apprehended every impartial person would be of a similar opinion.

The *Speaker* persisted in his opinion. He thought that, on several accounts, it was a private Petition. It did not appear sanctioned by all the members of the royal boroughs of Scotland as petitioning in favour of the reform, but only by a few, who, when compared to the majority of the people, were very inconsiderable.

Mr. *Fox* apprehended that a few individuals, however insignificant, had a right to petition parliament for the repeal of an act which was considered as universally obnoxious. Viewing the subject in this light, the present petitioners demanded the attention of the House, their mode of application being strictly constitutional.

Mr. *Dundas* expressed his astonishment, that the subject had not been sooner agitated in parliament. Excepting the hon. mover, he believed few who espoused the cause knew its merits or demerits. As a convincing proof, he wished that gentleman would rise up in his place, and say what he conceived to be the object of the reform. He was not for arguing a matter of such importance, at this late period of the session, and in a thin House. He would meet it fairly and fully, next session, or at any time when the subject was resumed. He should move, "That the House do now adjourn."

Mr. *Grey* said, that he held in his hand a petition from a numerous and respectable body of the inhabitants of Dundee. He would not, however, urge the presenting of it at present, as he agreed that it would be better to take the subject into consideration in a fuller House; but, as to the salutary effects likely to be derived from the adoption of the reform, he did not entertain the smallest shadow of doubt.

Mr. *Anstruther* condemned the object of the petitioners, and was surprised that the matter had not been sooner brought forward, he being informed that many of the gentlemen had been several months in town.

Viscount *Maitland* also rose with a petition in his hand. He warmly recommended the proposition for a reform, bestowed high encomiums on the projectors of the plan, and urged the propriety of receiving the petitions.

Mr. *Dempster*, although he did not approve of the principles of the reform, yet could not hear, in silence, insinuations advanced against his constituents of Dundee for supineness. He was convinced they did not deserve any such censure. With regard to the proposed reform, he must give his dissent to the subversion of that particular mode of government of the royal boroughs, which had existed for upwards of 200 years.

Mr. *Sheridan* defended the conduct of the gentlemen who officiated as delegates from Scotland. He declared, that their attention to the trust reposed in them by their countrymen, deserved the highest panegyric, as he never saw any description of men more sincerely bent upon the particular object of their pursuit. Previous to their residence in London, they had shewn the most active attachment to the laudable plan which had been brought forward; and although they had been several weeks in town, their time was strictly occupied in the duties incumbent upon them. They had visited and solicited all the representatives from their own country, who had, to a man, rejected their proffers, refusing to countenance a reform which militated so essentially against the interest of their constituents. The gentlemen alluded to were not, however, discouraged, but proceeded with that manly perseverance which should always command success. If the question of adjournment were now carried, he promised that the business should be resumed, as early as possible, next session.

Sir *John Sinclair* disapproved of the intended plan, but promised to submit to the House, in the course of the ensuing session, a proposition for a new system of the government of the royal boroughs.

Mr. *Adam* stated his objections to the present measure. He said, that he had always resisted reforms, and still entertained the same opinion of this intended innovation. He would meet the question fairly; but so far as regarded the alteration of the mode of electing members to serve in parliament, he would give it his decided opposition.

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The question of adjournment was carried.

Proceedings relative to the Impeachment of Mr. Hastings.] May 21. Mr. *Burke* expressed his conviction of the necessity which existed of that House not suffering the session to close without proceeding to take some step binding upon Warren Hastings, esq. to be forthcoming to answer the articles of impeachment which that House had preferred against him. He therefore moved, "That Warren Hastings, esq. be taken into custody of the Serjeant at Arms attending this House."

Mr. *Nicholls* stated his reasons for thinking that such a motion ought not to pass. His principal objection was, that it would brand Mr. Hastings with a stigma in the face of the country, by suggesting an idea, that the House had reason to suspect Mr. Hastings of some improper design of attempting to elude justice. Upon recurring to the Journals for precedents, he found there were three several modes of proceeding, which had been adopted by the House after they had presented articles of impeachment. The first was to take the party impeached into the custody of their own Serjeant at Arms; the second, to desire the Lords to take him into custody; and the third, to desire their lordships to put him to answer. Now, this last was precisely in point; the House having desired the Lords would put Mr. Hastings to answer the articles of impeachment. Among the various precedents upon the Journals, he had selected one, and that a case so far similar and corresponding, as it was one in which the party was not taken into custody. This was the case of Edward Seymour, esq. the 17th December 1680. Mr. Nicholls read the precedent, and added, that though he did not know that the taking of Mr. Hastings into custody, for the sake merely of carrying him up to the bar of the other House to be bailed would be attended with any personal inconvenience to that gentleman, yet he thought that the House ought to adhere to precedent, while they had so strong a one to be guided by.

The *Speaker* observed that he had the precedent of Mr. Seymour's case in his hand, but that the hon. gentleman had not stated the whole of it, for that three days afterwards, Mr. Seymour actually was taken into the custody of the Serjeant at Arms by order of the House.

Major *Scott* objected to the motion as a breach of promise. He had been told that it was not the intention of the hon. gentleman to move to take Mr. Hastings into custody of the Serjeant, and that information had been confirmed in a subsequent conversation by a learned gentleman then in his eye. On the day that the question of impeachment had been discussed, Mr. Hastings had been in attendance near the House, and ready to surrender, if called upon; but no such motion having then been made, he thought it unfair to bring it forward at present, though he admitted the making such a motion singly was more manly than doing it on the ground of any new article of impeachment, as he expected would have been the case.

Mr. *Anstruther* said, that if the major meant to allude to him, he had told him at the time that he really knew nothing about the intention of the hon. gentleman alluded to; but his idea was, that, in all probability, they would not move to take Mr. Hastings into custody.

Mr. *Pitt* said, that the fact was, that it had originally been thought that it was unnecessary for the House to take Mr. Hastings into custody by their Serjeant; but upon a more minute examination of precedents, and a consultation with others in another place, it had been found that the more regular and formal mode of proceeding would be for that House to take Mr. Hastings into custody by their Serjeant, for the purpose of carrying him to the bar of the House of Lords, there to give in bail, if the House of Lords thought proper; but this was not adopted with any view to subject Mr. Hastings to any particular hardship or inconvenience; it was merely chosen as a mode most suitable to the dignity of the House, and to the purposes of substantial justice.

Mr. *Burke* said, it was well known that his opinion had originally been, that Mr. Hastings should be taken into custody of their Serjeant; but he had given way to other gentlemen, who conceived that such a procedure might be dispensed with. That opinion, it now appeared, had been erroneous; the motion, therefore, which he had made was indispensably necessary.

The motion was carried. Mr. Burke then reported the 7th article of impeachment, which being agreed to, he was directed to carry the same to the Lords. The House being informed that Mr. Hastings was in the custody of the Serjeant at Arms, Mr. Burke was directed to acquaint the Lords with the same.

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May 21. Mr. Burke having delivered the said Message at the bar of the House of Lords,

Lord *Walsingham* rose and observed that there was no branch of the functions of their Lordships House in the exercise of which they ought to be more cautious and circumspect than in what related to their judicial character. They ought, also, to be singularly vigilant in such cases, in their attention to the conduct of the other House. The House of Lords was, he said, the most august and respectable of any tribunal upon earth. Of all criminal proceedings that by impeachment was the most solemn; and the impeachment then before them was, considering the magnitude of the charges, and the consequence and rank of the person accused, perhaps the most important that ever had been entertained in that House. He had two motions, he said, to make: the one relative to commitment, the other relative to bail. He went at some length into the nature of the criminal jurisdiction of that House, and its origin; and gave a short history of bail in general: which he defined to be a delivery of the person of the accused into the custody of his friends, to be by them produced according to the terms of his recognizance, either from day to day, or at any fixed time, as the court, out of whose hands he was taken, should appoint. Bail was a matter of common right, and was formerly allowed in all cases, treason and murder not excepted, but was afterwards taken away in those cases by statute. The admitting persons impeached to the privilege of bail, had however been the uniform practice of that House. The bail he should propose would be Mr. Hastings's own recognizance in the sum of 10,000*l.* and that of two sureties in 5,000*l.* each. The sums he had stated were the greatest that had ever been demanded by that House on similar occasions, as far as he had been able to ascertain it, and he had searched for precedents with considerable diligence; but perhaps other noble lords might have made more successful inquiries; if so, he hoped they would state any farther precedents that might have come within the reach of their investigation, as it was highly necessary that the House should proceed upon the fullest possible information. He then went into a general statement of the several precedents that had come within his knowledge, and concluded by moving, "That Warren Hastings, esq., be taken forthwith into the custody of the Gentleman Usher of the Black Rod, or his deputy or deputies attending that House, and be kept by him or them till the farther orders of the House."

The motion being agreed to, sir Francis Molyneux, Gentleman Usher of the Black Rod appeared a few minutes after at the bar, and informed their lordships, that Mr. Hastings was in his custody. It was then ordered, that he should be brought to the bar. Mr. Hastings accordingly appeared at the bar, where having bent his knee, the Lord Chancellor directed him to rise, and ordered the Articles of Impeachment to be read over.

After the clerk had proceeded some way, sir Francis Molyneux said, it was Mr. Hastings's request, if their lordships thought proper, that the Articles might be read short, and Mr. Hastings said, "My lords, I request," and then stopped.

The Duke of *Richmond* desired that the Articles might be read at length, declaring that he was a stranger to their contents, since he had thought it his duty not to look at them, nor inquire about them, till they came regularly before the House; and therefore, as it was a judicial proceeding, he hoped their lordships would not pass it over without due solemnity, and attention to every part of it.

The *Lord Chancellor* said, he had ordered the Articles to be read over, and he had no reason to think the clerk would not do his duty. He believed he had hitherto read them at length, and was proceeding so to do when the noble duke had risen.

The reading clerk then went on, and was occasionally relieved by Mr. Cooper. At half past nine lord Dunmore moved, that Mr. Hastings might be indulged with a chair, which was immediately consented to by the House. The reading of the sixth Article being concluded, lord Townshend expressed a wish that the remainder might be read short. The marquis of Stafford said, that it was not consistent either with the dignity of the House, or the honour of Mr. Hastings, that the charges should not be gone through. The duke of Richmond was also against the remainder of the charges being read short, and wished rather that the reading might be postponed than not fully gone through with; for unless the Articles were fully read, it was impossible to judge what bail it would be proper to admit. The Lord Chancellor said, that

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according to the rules of the House, the reading of the remaining Articles could not be postponed. The clerks then proceeded with the remaining Articles. At eleven the Articles were finished, and the Lord Chancellor demanded of Mr. Hastings what he had to say in his defence. Mr. Hastings answered, "My lords, I rely upon the justice of this House, and pray that I may be granted a copy of the charge, with a reasonable time to make my defence. Likewise that I may be allowed counsel; and that I may be admitted to bail." The Black Rod having then withdrawn with his prisoner,

Lord *Walsingham* moved, "That Warren Hastings, esq. be admitted to bail, himself in 10,000*l.*, and two sureties in 5,000*l.* each."

The Duke of *Norfolk* conceived the bail not to be sufficient; the highest bail on their lordships Journals was 40,000*l.* The charges exhibited against Mr. Hastings were of great enormity, and deeply affecting the national character; he submitted it to their lordships, therefore, whether out of respect to the House of Commons, and in consideration of the magnitude of the charges, it would not be proper to have bail to the amount of 50,000*l.* He admitted, that in all cases excessive bail was bad, and contrary to Magna Charta, and declared that if Mr. Hastings, or any of his friends, should object to that bail as excessive, he would not persist in his motion.

The Earl of *Hopetoun* was of opinion, that the bail moved for was sufficient; but for the purpose of preserving unanimity, and to prevent any disagreement appearing on their lordships Journals on so solemn an occasion, he acquiesced in the bail proposed by the noble duke.

Viscount *Townshend* seconded the motion of the noble duke, assigning as a reason for so doing, the extent of the charges and the enormity of the offences Mr. Hastings was charged with. At the same time, he believed, that the difference of bail would be no consideration to Mr. Hastings.

The *Lord Chancellor* observed, that as the Articles contained very weighty charges, it was necessary to have sufficient bail, but that excessive bail was always to be avoided, as by such bail any person might be imprisoned, by not having it in his power to procure sufficient sureties. If such excessive bail was demanded, as it was not in the power of the person impeached to procure, then punishment would be oppression, and the effect of an example would be lost. He concluded by saying, that in his opinion it would be proper to adhere to the precedent of sir John Bennet on their Journals, to prevent their being led astray, and therefore he moved to admit Mr. Hastings to bail, himself in 20,000*l.*, and two sureties in 10,000*l.* each.

This being agreed to, and the other parts of Mr. Hastings's request granted, he was again called in, and kneeling at the bar, the Lord Chancellor addressed him to the following purport:

"Mr. Hastings; the Lords have allowed you one month, and until the second day of the next session of Parliament, to make your answers to the charges alleged by the Commons of this kingdom against you; you will therefore prepare what you have to urge in your own defence before that period. They have also admitted you to bail, on the terms of your binding yourself in twenty thousand pounds, and your friends in twenty thousand pounds more, as a security for your abiding the issue of process: they have likewise allowed you counsel, and you will be so good as name them."

Mr. Hastings then bowing, said, "I thank your lordships for the great indulgence which you have shown me: I am now ready to produce my bail; and my counsel are the following gentlemen, Messrs. Plomer, Law, and Dallas." He then offered as his sureties Messrs. Sullivan and Sumner, who accordingly justified at the bar, and their recognizance being taken, Mr. Hastings was ordered to withdraw. The remaining Articles of Impeachment were agreed to by the House of Commons without any debate, and on the 28th of May were presented by Mr. Burke to the Lords; and Mr. Hastings being ordered to attend, they were read the same day, and copies of them ordered for his use.

The Speaker's Speech to the King on presenting the Money Bills.] May 30. His Majesty went in the usual state to the House of Lords, and being seated on the Throne, the Commons were sent for.

The *Speaker* addressed his Majesty as soon as he came to the bar, and stated, that he had brought up with him two Bills, by which the House of Commons had granted to his Majesty an additional supply. He said, that it was with the

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highest satisfaction that his Majesty's faithful Commons had been able to provide for the services of the current year, without being obliged to have recourse to any new loan. He mentioned likewise that the House had attended to the arrangement which his Majesty had lately recommended, and had unanimously voted the necessary provision for a distinguished branch of his own family. He then proceeded to enumerate the transactions of the session. He said, that they had taken such measures as appeared to them most likely to carry into effect the several articles and conditions of the Treaty of Navigation and Commerce with France; that the state of the revenue had engaged their most constant attention; that it had been an especial object with them to secure it in such a manner as should best support the national credit, and add to the prosperity and safety of his Majesty's dominions; and that they had passed bills containing regulations for the ease of the merchants, and for simplifying the public accounts in the various branches of the revenue.

The King's Speech at the Close of the Session.] The royal assent being given to the several Bills, his Majesty put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"I cannot close this Session of Parliament without expressing my entire approbation of the zeal and assiduity with which you have applied yourselves to the important objects which I recommended to your attention; and at the same time returning you my particular thanks for the proofs which you have given of your affection for me, and for my family and government.

"The assurances which I receive from foreign powers, of their good disposition to this country, and the continuance of the general tranquillity of Europe, afford me great satisfaction; but dissentions unhappily prevail among the states of the United Provinces, which, as a friend and well-wisher to the republic, I cannot see without the most real concern.

"Gentlemen of the House of Commons;

"The cheerfulness with which you have granted the necessary supplies, and the ample manner in which you have provided for the several establishments, demand my sincerest thanks.

"I see, with particular satisfaction, that you have, at the same time, been able to furnish the sum annually appropriated to the reduction of the national debt, without imposing any new burthens on my people.

"My Lords and Gentlemen;

"I reflect, with peculiar pleasure, on the measures which you have taken for enabling me to carry into effect the Treaty of Navigation and Commerce with the Most Christian King; and for facilitating the collection, and simplifying the accounts of the various branches of the Revenue, which, I trust, will be productive of the most beneficial effects. And I rely upon your using your best endeavours, in your several counties, to carry into effect the measures which have been taken for the prevention of illicit trade, and to promote good order and industry among every class of my subjects.

The Parliament was then prorogued to the 31st of July. It was afterwards farther prorogued.

FIFTH SESSION OF THE SIXTEENTH PARLIAMENT OF GREAT BRITAIN.

King's Speech on Opening the Session.] November 27. His Majesty opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"At the close of the last session, I informed you of the concern with which I observed the disputes unhappily subsisting in the republic of the United Provinces.

"Their situation soon afterwards became more critical and alarming, and the danger which threatened their constitution and independence, seemed likely in its consequences to affect the security and interests of my dominions.

"No endeavours were wanting on my part to contribute by my good offices to the restoration of tranquillity, and the maintenance of the lawful government; and I also thought it necessary to explain my intention of counteracting all forcible interference on the part of France, in the internal affairs of the republic. Under these circumstances, the king of Prussia having taken measures to enforce his de-

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mand of satisfaction for the insult offered to the princess of Orange, the party which had usurped the government of Holland applied to the Most Christian King for assistance, who notified to me his intention of granting their request.

"In conformity to the principles which I had before explained, I did not hesitate, on receiving this notification, to declare, that I could not remain a quiet spectator of the armed interference of France, and I gave immediate orders for augmenting my forces both by sea and land.

"In the course of these transactions, I also thought proper to conclude a treaty with the landgrave of Hesse Cassel, by which I secured the assistance of a considerable body of troops in case my service should require it.

"In the mean time, the rapid success of the Prussian troops under the conduct of the duke of Brunswick, while it was the means of obtaining the reparation demanded by the king of Prussia, enabled the Provinces to deliver themselves from the oppression under which they laboured, and to re-establish their lawful government.

"All subjects of contest being thus removed, an amicable explanation took place between me and the Most Christian King, and declarations have been exchanged by our respective ministers, by which we have agreed mutually to disarm, and to place our naval establishments on the same footing as in the beginning of the present year.

"It gives me the greatest satisfaction that the important events which I have communicated to you, have taken place without disturbing my subjects in the enjoyment of the blessings of peace; and I have great pleasure in acquainting you, that I continue to receive from all foreign powers the fullest assurances of their pacific and friendly disposition towards this country. I must, at the same time, regret that the tranquillity of one part of Europe is unhappily interrupted by the war which has broken out between Russia and the Porte.

"A Convention has been agreed upon between me and the Most Christian King, explanatory of the thirteenth Article of the last Treaty of Peace, and calculated to prevent jealousies and disputes between our respective subjects in the East Indies. I have ordered copies of the several Treaties to which I have referred, and of the Declaration and Counter-declaration exchanged at Versailles, to be laid before you.

"Gentlemen of the House of Commons;

"I have ordered the estimates for the ensuing year to be laid before you, together with an account of the extraordinary expenses which the situation of affairs rendered necessary.

"I have the fullest reliance on your zeal and public spirit, that you will make due provision for the several branches of the public service. I am always desirous of confining those expenses within the narrowest limits which a prudent regard to the public safety will permit; but I must at the same time recommend it to your particular attention to consider of the proper means for maintaining my distant possessions in an adequate posture of defence.

"My Lords and Gentlemen;

"The flourishing state of the commerce and revenues of this country, cannot fail to encourage you in the pursuit of such measures as may confirm and improve so favourable a situation.

"These circumstances must also render you peculiarly anxious for the continuance of public tranquillity, which it is my constant object to preserve.

"I am at the same time persuaded that you will agree with me in thinking, that nothing can more effectually tend to secure so invaluable a blessing, than the zeal and unanimity which were shown by all ranks of my subjects on the late occasion, and which manifest their readiness to exert themselves whenever the honour of my crown and the interests of my dominions may require it."

Debate in the Lords on the Address of Thanks.] His Majesty having retired,

The Earl of *Harrington* rose and observed, that it was with peculiar satisfaction he requested the attention of their lordships on the present occasion, though he was convinced that it was not necessary for him to say much to induce them to agree to an address which he should have the honour to move; nor did he conceive that it was requisite at any great length, to urge their lordships to give their approbation to measures, the result of which had proved so fortunate for the honour and interests of Great Britain. Every man who beheld this country rising from depression, to that rank among the nations of Europe in which she had long

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flourished, must feel a glow of satisfaction in contemplating the present auspicious moment. The measures which had been adopted, as a natural consequence of the alarming interference of France in the dissentions which unhappily disturbed the constitutional government of the United Provinces, had not only restored the public tranquillity, but defeated the deep designs of an enemy which we ought perpetually to watch with a jealous eye. To gain an ascendency in the councils of Holland had been the invariable policy of France for a long series of years; and it was unnecessary for him to say how fatal those designs, had they succeeded, might have proved to this country. Happily they were now frustrated, he hoped, for ever. He would, for a moment, suppose, that the party against the House of Orange had prevailed, and, to support their cause, had thrown themselves into the arms of France: what would have been the natural consequences? The Austrian Netherlands, which were at so great a distance from the seat of empire, would probably have been the first sacrifice to the pride and ambition of their new ally. And would not this country have had every thing to dread from the junction of the marine of Holland with that of the House of Bourbon?—Upon this occasion, no inconsiderable degree of praise was due to ministers for their active and spirited exertions against an opposition so formidable in its nature. Had they lingered in negociation, their endeavours would probably have proved fruitless, and we might have again been plunged into a ruinous war. It was, therefore, with the most unfeigned satisfaction that he again beheld his country in so flourishing a situation—a situation which had been purchased without the blood of her armies, or the expenditure of her treasures. He heartily congratulated the sovereign on an occasion so honourable to his councils, and so grateful to the nation at large, and he hoped he would long enjoy those honours which now fell thick around him. The noble earl then entered upon a short detail of the motives which had induced the king of Prussia to take a decided part in the disputes of Holland. He complimented the prince of Brunswick on the good conduct which had distinguished his operations in re-establishing the constitutional government, and concluded with moving,

"That an humble Address be presented to his Majesty, to assure him that his Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, beg leave to return his Majesty their humble thanks for his most gracious Speech from the throne: —That they acknowledge with heartfelt gratitude his Majesty's constant regard to the interests of his people, which could not be more fully manifested than by his attention to the disputes lately subsisting in the republic of the United Provinces: —That the danger with which their constitution and independence were threatened, could not but affect, in its probable consequences, the security and interests of his Majesty's kingdoms:—That they beg leave, therefore, humbly to express their highest approbation of his Majesty's just and wise determination to counteract all forcible interference on the part of France in the internal affairs of the Republic; and that they acknowledge, in the fullest manner, the propriety and necessity of the declaration made by his Majesty in conformity to these principles, when the intention of the Most Christian King to assist the party which had usurped the government of Holland was notified to his Majesty. And that they cannot but heartily applaud the wise and vigorous steps taken by his Majesty for the augmentation of his forces by sea and land; measures which, while they prepared the country for the emergency which might arise, were the most likely to prolong the blessings of peace:—That they learn with particular satisfaction, the rapid success of the Prussian troops under the auspicious conduct of his serene highness the duke of Brunswick, which has obtained for his Prussian Majesty the just reparation which he demanded, and enabled the provinces to deliver themselves from the oppression under which they laboured, as well as to establish their ancient and lawful government:—That the important events which have taken place, without disturbing his Majesty's subjects in the enjoyment of the blessings of peace, afford matter of cordial congratulation to his Majesty; and that they are happy to see his Majesty enabled to enter into an agreement with the Most Christian King for disarming, and placing the naval establishments of the two countries upon the same footing as in the beginning of the present year:—That they beg leave to return their humble thanks to his Majesty for ordering the several treaties and conven-

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tions to be laid before this House, and to assure his Majesty that they shall see with satisfaction any arrangement calculated to prevent jealousies and disputes between his Majesty's subjects and those of the Most Christian King in the East Indies: —That his Majesty may depend upon their concurrence in such measures as it may seem expedient to adopt, in consequence of the other engagements entered into by his Majesty, as well as such as may be necessary for placing his Majesty's distant possessions in an adequate posture of defence:—That the flourishing state of the commerce and revenues afford them the highest satisfaction, and cannot fail to stimulate them to use their utmost endeavours to confirm and improve such important advantages, as well as to concur with his Majesty's paternal wishes for the continuation of the public tranquillity: —That they lament that hostilities should have broken out in any part of Europe; but that they receive with satisfaction the information that his Majesty continues to be assured of the pacific disposition of all foreign powers towards this country:— That they reflect with pleasure on the zeal and unanimity shown by all ranks of his Majesty's subjects on the late occasion, as it must give more weight to the assurances which they now humbly offer to his Majesty, that, with every wish to cultivate the blessings of peace, they shall be always ready to exert themselves to the utmost, when the honour of his Majesty's crown and the interest of his people may require it."

Viscount *Bulkeley* said:—My Lords; Though I experience the full weight of the task which I have imposed on myself in seconding the noble lord in a motion for a dutiful address to his Majesty, I confess I feel some degree of vanity in claiming your attention at this particular juncture, which the wisdom and the spirit of his Majesty and his ministers, has rendered proud and glorious to all who love their country, and wish well to its prosperity. The principal points which his Majesty has dwelt upon, relate to the dissentions in the republic of Holland, the rise and progress of which have been the more observed and lamented by the people of England, because they involved with them the dissolution of the old ties and connexions between the two countries. They were broken by the mad infatuation of a party in the Republic, determined on the destruction of their old constitution, and encouraged by a confidence in the interference of the court of France. I need not tell your lordships that their enmity to the stadtholder, and to the adherents to the old constitution, were replete with objects ultimately of the most dangerous consequences to this country. His Majesty and his ministers saw the tendency of these combinations against the security of his kingdoms, and the urgent necessity of co-operating with the king of Prussia, to support the legal authority of the stadtholder and of the old constitution of Holland. In mentioning the king of Prussia, I cannot refrain from observing to your lordships how noble a part he has acted on a late occasion, and how worthy the successor of his immortal uncle; nor can I refrain from joining my tribute of admiration to that of the noble earl, of the transcendent military and political talents displayed by that illustrious Prince so nearly allied to this country, to whom the King of Prussia thought proper to intrust the command of his army in Holland. The declaration of the Most Christian King, signified by his minister at this court, left to his Majesty no alternative, consistent with those principles which his regard to the dignity of his Crown, and his affection to the interests of his people, suggested to him.—You saw, my lords, how all ranks of men pressed forward to support the exertions which the king of a free country alone can make when he reigns in the hearts and affections of his parliament and of his subjects. Subsequent explanations afterwards took place, and the declaration and counter-declaration between the courts of France and Great Britain finally settled the points at issue. The consequences of these events will, I trust, be the restoration to this country of her old and natural alliances. All these great advantages have been obtained to this country under the auspices of a minister, who, besides an hereditary claim to your confidence, has now by his foreign negociations, as before by his internal management of your resources, proved himself equal, if not superior, at a very early period of his life, to any of those great characters who have ever adorned this country. It is under his administration that this country is restored to the rank and consequence it formerly held in the political scale of Europe.

The Bishop of *Llandaff* [Dr. Watson] said:—My Lords; when the Commercial

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Treaty with France was agitated in parliament during the last session, I made an observation which I will, on this occasion, take the liberty to recall to your lordships recollection. In adverting to the importance of the trade of Holland to this country, I expressed myself, as nearly as I can now recollect, in the following terms: —" I knew not, I said, by what ill-judged policy in one country, or in both, it had happened, that the good understanding which had formerly subsisted between Great Britain and Holland had of late years been much interrupted; sure I was, that it was for the most essential interests of both countries that it should, as soon as possible, be restored; for that I had ever considered Holland as the firmest barrier to this country against the ambition of France, inasmuch as if France should ever, either by force or fraud, become really or virtually possessed of the marine of Holland in addition to, or conjuncton with, her own, there would be an end of our history as a great, commercial, and free people. And as to that Republic, she was infatuated, I thought, by her divisions, if she did not perceive, that she could never be secured against the machinations of continental despotism but by the shield of Britain."—It would be an abuse of your lordships patience to spend any time in showing, how the present circumstances of the two countries coincide with, and conform to, the truth of this observation in both its parts; there is not a noble lord in the House, nor a person out of it, who has turned the subject in his thoughts, but must clearly perceive, that the present view of the government of Great Britain and of Holland, are in perfect correspondence with the ideas here thrown out. It was not, however, for the sake of making this remark that I have troubled your lordships with a repetition of the observation; but from a desire of showing the consistence of my own conduct, by explaining the ground of the opinion which I mean this day to deliver.

My lords, it is impossible for me, whose mind is occupied by such ideas as I have mentioned, not to give a clear and full approbation of the measures, which his Majesty's ministers have been pursuing for the last three months; they have been, I humbly think, founded in great political wisdom, and executed with vigour and expedition. To have opened the eyes of the Dutch nation to their true interests, to have disengaged them from the net by which French policy had entangled them, and to have united them with such firmness and policy, in bonds of amity and interest to this country, are measures for which his Majesty's ministers deserve the thanks of their country; for which at least (however despicable the support of a poor bishop may be in the estimation of men high in rank, and high in office) I now give them mine with cordial sincerity.

One difficulty, my lords, has occurred to me in weighing this subject; it is a difficulty of some importance; I will state it. On the principles of the law of nature and nations, what right had Great Britain or Prussia to interfere by force, in settling the internal disputes of an independent state? Was it the right which every individual in a state of nature (and all independent nations are in that state) possesses, of assisting those whom he sees oppressed by unjust force? No; to say it was that right, is to take the question for granted, since the opponents of the Stadtholder, will not allow that he was oppressed by unjust force. Was it the right of assisting the majority of a country, to recover their ancient civil constitution from the encroachments and usurpation of a daring and deluded faction? I trust, my lords, it was that right; I trust that the majority of the Dutch nation were desirous rather of reinstating the Stadtholder in his authority, than of restricting it within narrower limits than he had formerly possessed; I trust, I say, that it was that right; but I do not know that it was; I am not enough acquainted with the wishes of the majority of the Dutch nation on this head. Upon what other ground, then, is it, that I have proceeded in approving, not merely as useful, but as just, the measures of administration? It is on the ground of self-preservation; for if France had gained Holland, we had been undone.

There is a question much debated amongst writers on jurisprudence, which is very applicable to the case in point; I will mention it nearly in the words of Grotius: 'Contra crescentem potentiam 'quæ nimium aucta nocere posset, licet 'ne arma sumere?' Grotius and Puffendorff determine this question in the negative. I should blush with shame, in opposing my opinion to such high authority, if I could not give a reason for it: It is not the mere possibility of our being injured by the growing power of France, that justifies us in taking up arms against

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her, but it is the probability united with the possibility; it is the probability that if she had the power, she would not want the will to do it. There is not a cabinet in Europe which is to be trusted with the power of enlarging her dominions; and no one believes that France is more to be trusted than any other. When it is said that Holland and the other states of Europe are independent states, the proposition is true only in a certain consideration; for they all depend one upon the other, like the links of the chain; and it is the business of Great Britain to watch France, of France to watch Great Britain, and of every link of this chain to watch every other, lest any one of them should become so weighty and powerful, as to drag down to perdition, to the loss of personal liberty and political importance, every other. This is the principle upon which all the wars undertaken for preserving the balance of power in Europe have proceeded, and on this principle our present measures are to be justified.

I do not mean frequently to take up your lordships time on political subjects; but having, on a late occasion, with great freedom and sincerity, condemned the measures of Administration, because they appeared to me subversive of the commercial principles by which we had hitherto so highly prospered, and in other respects dangerous to the state; I thought it but common justice to them and to myself, to express my full and decided approbation of the present measures, which I cannot but consider as highly salutary to the best interests of the community. Will the House permit me to indulge my private feelings for a single moment on a different subject? It is a subject which none of your lordships will ever hear without regret, which I shall never think of without sorrow—the death of the duke of Rutland. The dead listen not to the commendations of the living, or, dearly as I loved him, I would not now have praised him. The world, my lords, was not aware of half his ability, was not conscious of half his worth? I had long and just experience of them both. In the conduct of public affairs his judgment was equalled, I verily believe, by few men of his age; his probity and disinterestedness were, I am confident, exceeded by none. All the letters which I received from him respecting the public state of Ireland, and they were not a few, were written with strong good sense, and in nervous language. They all breathed the same liberal spirit, had all the same noble tendency—not that of aggrandizing Great Britain by the ruin of Ireland—not that of building up Ireland at the expense of Great Britain—but that of promoting the united interests of both countries, as essential parts of one common empire. In private life, my lords, I know that he had a strong sense of religion on his mind, and he showed it by imitating his illustrious father in the practice of one of its most characteristic parts—in being alive to every impulse of compassion. His family, his friends, his dependents, all his connexions, can witness for me the warmth and the sincerity of his personal attachments. From the time this young nobleman was admitted a pupil under me at Cambridge, I have loved him, my lords, with the affection of a brother; and I have, through life, on every occasion of difficulty spoken to him, and I thank God that I have done so, with the firmness and sincerity of a father. Your lordships will judge, then, all private interest totally out of the question, how inexpressibly I have been, and am, afflicted by his death. His memory, I trust, will be long, long revered by the people of this country, long held dear by the people of Ireland—and by myself I feel it will continue to be held most dear as long as I live.

Viscount *Stormont* protested that it was always his inclination to agree in the Address to the throne; nor did he ever dissent from it, except on those occasions when a sense of his duty superseded all compliment. In the present instance he had no objection to concur with the Address which had been moved. This declaration would not, however, he trusted, be considered as binding him to a general approbation of all the points which were included in his Majesty's speech. Many of those he had not yet had an opportunity of examining, so as to ascertain whether they deserved his censure or applause; and there were some topics involved in such obscurity, as to render it impossible for him to give any opinion concerning them in that early period of the session. He would give ministers the sanction of his voice for the measures they had lately adopted. He thought the armaments which had been made necessary, in the critical juncture of public affairs, the preservation of the Stadtholder's rights, the restoration of the ancient constitution of Holland, and the

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dearest interest of this country, required vigorous exertions on the part of government; but while he was ready to express his coincidence with those proceedings, he could not but recur to the strange and inconsistent language and conduct of his Majesty's ministers, dating from a period not very remote. Their lordships might naturally suppose that he alluded to the debates on the Commercial Treaty, when that House was so much entertained with the assurances of the amicable intentions of the court of France. When the highest strains of poetical imagination were employed to depict the serene, unclouded atmosphere which we were in future to enjoy—a state of blissful indulgence, which nothing could cast a shade on but the unfounded jealousies and visionary suspicions of those, who, like himself, were distrustful of Gallic friendship and Gallic faith. Yet, beautiful as were such descriptions, it could no longer be denied, that at the very moment when ministers were with a childish credulity, swallowing those professions, and cramming them down the throats of that House, a storm was actually gathering which threatened the annihilation of the political importance and splendour of this country. No longer did it remain a secret that the cabinet of Versailles was at that very period exerting every engine of intrigue to possess itself of an absolute control over the United Provinces. That they had failed of their object, he attributed solely to the interposition of Providence; for, had not the French party, or those who called themselves patriots, in Holland, and whom ministers, not very respectfully towards their good friends, had stigmatized as usurpers, been so infatuated as to refuse the redress demanded by the King of Prussia for the indignity offered to his sister, what circumstance could have prevented the French from continuing their machinations in that country? Had that deluded faction come forward, and professed their readiness to make every reparation in their power for the insult which the princess of Orange had met with, surely the King of Prussia could not have found even the slightest pretext, consistently with his own public declarations, for interfering forcibly in the affairs of the republic. This being the case, what merit could administration arrogate to themselves for the happy turn which things had taken? To judge from the language of the King's speech, one would be led to suppose that the disturbances in Holland had originated within a very short time preceding the late revolution. Was the fact so? or rather he should ask, had not administration, with an unpardonable supineness, suffered the Stadtholder to be driven from the Hague, to be divested of his most sacred and valuable rights, and to be nearly expatriated before they took any steps to relieve him? Lulled to rest by these seducing, but delusive professions of their novel friends, they permitted them to pursue their policy in Holland, without taking one effectual step, with which, at least, the world was acquainted, to counteract them; and if this country had now recovered her ancient alliance with the United Provinces, and regained her ascendance in the political scale of Europe, it was perfectly fair for him to ascribe that glorious event to the singular and unforeseen occurrences which had happened, rather than to the wisdom and foresight of ministers.—Lord Stormont next taking a view of the actual situation of France, suggested a defence for the conduct of the French minister, from the words of Dido to Æneas, 'res dura, et regni novitas,' &c. He dwelt on the distracted situation of that country, and expressed his hope, that the spirit of liberty which had lately appeared there might become general. To that deranged state, more than to their affection for ministers, he attributed their readiness to disarm.

The Marquis of *Carmarthén* said, that copies of the Treaties would be laid before the House in a few days, when noble lords would have an opportunity of examining them. With respect to what had fallen from the noble viscount, relative to what he had said when the business of the Commercial Treaty was debated, he had not been so correct. His Majesty's ministers had not said, that any important political advantage which this country enjoyed ought to be given up for the purpose of accomplishing a Treaty of Commerce with France. On the contrary, he had invariably asserted, that, though it was a desirable object for us to live upon good terms with France as long as she would suffer us, yet still we ought to watch all her motions with a jealous eye. Our late success, so far from lulling us into security, would only tend to increase our vigilance, so that no danger was to be apprehended from the supineness or inactivity of ministers, as long as

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they enjoyed the confidence of the people, which was so conspicuously manifested on the late occasion.

Lord *King* approved of the Address. He affirmed that the observations of the noble viscount were, so far as respected our continental influence, highly improper. He wished him to recollect, that he formerly belonged to that detestable administration which had almost destroyed our continental influence, and brought our political importance in Europe to the very verge of ruin.

The Duke of *Norfolk* expressed his general approbation of the measures which had been carried into execution. He approved also of that part of his Majesty's speech which recommended the putting our distant possessions into a proper state of defence.

The Address was agreed to *nem. con.*

The King's Answer to the Lords' Address.] To the preceding Address his Majesty returned this Answer:

"My lords;

"I thank you for this affectionate and loyal Address. The satisfaction which you have unanimously expressed in the measures I have taken is particularly agreeable to me. You may depend, that both in war and in peace my constant objects shall be the honour of my crown, and the advancement of the interests of my people."

Debate in the Commons on the Address of Thanks.] The Commons being returned to their House, and his Majesty's Speech read by the Speaker,

The Hon. *Dudley Ryder** rose, and in an elegant and pointed speech, moved an Address to his Majesty. He began it with a clear and spirited recital of the progress of the transactions in the United Provinces, where such was the madness of those who had armed themselves to overturn and usurp the lawful government, and so far had it carried them, that they ventured to offer a gross and personal insult to the Princess of Orange. He stated, that his Prussian Majesty had demanded satisfaction for the insult offered to his sister, and the Duke of Brunswick proceeded to the frontiers with the Prussian army to enforce the demand; that the cause of his approach was publicly and explicitly declared, but such were the violence and obstinacy of the insurgents, that they refused to give the satisfaction required, and carried their outrages so far, that not only every province but almost every town was in a state of rebellion, and the lawful government overthrown. That these acts of insurrection compelled the duke of Brunswick to enter the United Provinces with the Prussian army, where his rapid successes with equal ease and effect restored the lawful government, which was fully re-established by the surrender of Amsterdam, and the reinvestment of the magistrates in their offices. Mr. Ryder dilated with great eloquence on the mild conduct of the duke of Brunswick, in the first instance, on his firmness and activity afterwards, and on the brilliancy of his success, ascribing the ease with which he had achieved his object to the justice of his cause. He suggested the manner in which France had acted, and proved the strong necessity that presented itself for this country to arm, observing that the steps pursued by government were equally wise and vigorous. He traced the progress of the measures that had been taken, and showed that they were marked by a prudent regard to the circumstances of the country, and a proper consideration of the burthens of the people. When it became absolutely necessary to proceed to military preparation, nothing was more obvious than the energy of government and the zeal of the people. The moment of armament, he said, had been happily chosen, and the event justified its propriety. The whole exhibited a glorious picture to this country, as it proved that a love of justice was a primary consideration with us, that the national spirit retained its original ardour, and that although the wounds of Great Britain were yet green, and she was still suffering in consequence of the late calamitous and unequal war, a war in which she fought not for glory, but for existence, she was nevertheless able and willing to stand forth the protector of the oppressed, and the defender of the injured. By such conduct this country had redeemed her former character, and had raised her head among the nations of the earth. Mr. Ryder dilated on the Treaty concluded with the Landgrave of Hesse, and declared that subsidiary treaties ought always to be cultivated by commercial countries, since the aid of foreign troops enabled them to keep the artisan and the manufacturer, and the

* The present earl of Harrowby [A. D. 1816.]

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most useful orders of the people, at home. He congratulated the House, and the country, on the amicable settlement of differences between England and France, an object so desirable, and which had been gained without a single sacrifice. He said, it would be the means of opening to Great Britain a new source of riches, from the most pleasing prospect of a permanent peace. The necessary expenses occasioned by the preparations for war, he was certain would be chearfully defrayed by the country when the price was compared with the purchase; as any expense would be which might be considered necessary to secure the distant possessions of England, which, on the nearer approach of hostilities, appeared most vulnerable. The flourishing state of the resources, he said, would enable the country to meet every necessary expense; and he conceived the conduct of his Majesty's ministers to be highly meritorious in stepping forward to preserve the independence of that country to which Great Britain was indebted for her glorious revolution. He therefore doubted not, but that the House would unanimously second the spirited exertions of administration, and preserve what had been gained. After touching upon the various topics of the speech, and painting the happy effects of the late measures in glowing colours, Mr. Ryder concluded with moving, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his Majesty's most gracious Speech from the Throne:—To assure his Majesty, that his faithful Commons acknowledge with gratitude his Majesty's regard for the welfare and interests of his People, manifested by his attention to the disputes which unhappily subsisted in the Republic of the United Provinces, and by his endeavours to promote the restoration of their internal tranquillity, and the maintenance of their lawful government:—That we are sensible that the danger which lately threatened the constitution and independence of the United Provinces was likely in its consequences, to affect the security and interests of his Majesty's dominions; and that we particularly applaud his Majesty's just determination to counteract all forcible interference on the part of France in the internal affairs of the republic:—That we feel in the strongest manner, the propriety and necessity of the declaration made by his Majesty, as well as of the seasonable and vigorous steps taken for the immediate augmentation of his Majesty's forces both by sea and land:—That the rapid and brilliant success of the Prussian arms, under the conduct of his serene highness the Duke of Brunswick, affords us matter of peculiar satisfaction, both as it was the means of obtaining the reparation demanded by the king of Prussia, and as it has enabled the Provinces to deliver themselves from the oppression under which they laboured, and to re-establish their lawful government:—That we cordially congratulate his Majesty on the important events which have taken place without disturbing his Majesty's subjects in the enjoyment of the blessings of peace, and which have enabled his Majesty to enter into an agreement with the Most Christian King for mutually disarming, and placing the naval establishments of the two countries on the same footing as in the beginning of the present year:—To express our thanks for the communication of the several treaties and declarations which have been ordered by his Majesty to be laid before this House:—That we shall see with pleasure any arrangement properly calculated to prevent jealousies and disputes between his Majesty's subjects and those of the Most Christian King in the East Indies; and that we shall proceed, without loss of time, to consider what steps it may be fit to take in consequence of the other engagements entered into by his Majesty:—To assure his Majesty of our readiness to make such provision as may be necessary for defraying the extraordinary expenses which have been incurred by his Majesty, and for carrying on the several branches of the current service:—That we shall make it the object of our immediate attention to consider what measures it may be expedient to adopt for maintaining his Majesty's distant possessions in an adequate posture of defence:—To assure his Majesty of our unremitting assiduity in the pursuit of measures which may tend to confirm and improve the favourable situation of affairs:—That the flourishing state of the commerce and revenue of the country must make us concur with more peculiar earnestness in his Majesty's paternal wishes for the maintenance of the public tranquillity:—That on this account, while we see with concern the war which has unhappily broken out between Russia and the Porte, we have great satisfaction in learning that his Majesty continues to receive from all foreign Powers the fullest assurances of their pacific disposition towards this coun-

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try:—That, at the same time, we are thoroughly sensible that nothing can more effectually tend to secure the invaluable blessings of peace, than the zeal and unanimity which were shown by all ranks of his Majesty's subjects on the late occasion, and which manifest their readiness to exert themselves whenever the honour of his Majesty's crown, and the interests of his dominions, may require it."

Mr. *Brooke* seconded the motion, and having alluded to his connexions with Lancashire, added, that he felt it his duty to express his own and the thanks of the manufacturers of that county, to the minister, who had, at the same time, asserted the dignity of the nation, and secured to them the extraordinary advantages of the Commercial Treaty. For his part, he would cheerfully vote the sums which might be called for in consequence of the spirited preparations for war, which had brought us so much glory. Europe stood amazed at the vigour with which we had acted so soon after an unsuccessful war; and the conduct of the House on this day, would show that the hearts of the people went fully along with the minister who had restored the country to its weight in the scale of nations. He had supported the natural friends, and humbled the natural enemies of Great Britain; and had extended the trade, and increased the revenue of the country. Therefore, in providing for the expenses incurred on this occasion, the House ought to compare the price with the thing purchased; and as the latter made the people rich in wealth and reputation, so the House ought readily to pay the former. He should avoid going into any detail on the business, because his first object in rising was, to second the motion, and this he did with all the warmth that a heart full of gratitude to the right hon. author of so many advantages to the country could experience. His second view was, to express his conviction, that the contrast between the late and the present situation of Great Britain in the scale of Europe, was an object which every man to whom the interest and the glory of his country was dear, must contemplate with equal exultation and gratitude.

"There is a tide in the affairs of men,
Which taken at the flood, leads on to fortune,"

was an observation confirmed by long experience with regard to private life. It seemed no less true when applied to nations. This flood of fortune ministers had watched with discernment, and followed with ability. They had exhibited such an union of counsel and of action, as was rarely to be found, and the success had been equal to their skill and exertions.

Viscount *Fielding* said, that he was far from entertaining the least intention of throwing an impediment in the way of the wishes of the two honourable members who opened the debate. The object of the Address was to signify the approbation of the House of the steps taken by the minister in the late transactions relative to Holland, and he would readily concur in that approbation; but he desired it might be understood, that he did not pledge himself, by approving of the minister's conduct as far as it had gone, to say that he ought not to have gone farther. Upon this latter point he was not yet sufficiently informed, to be able to give an opinion; but thus much he would venture to say, that the situation of France being considered, he thought our ministers might have perhaps sacrificed too much to the love of peace; and in order to enjoy the blessings of it a little longer, had left it in the power of France to break with us soon, with great advantage to herself, and infinite prejudice to us. In the late negociations with the French court, they ought to have insisted upon the demolition of the works at Cherbourg; from those we had every thing to apprehend. Cherbourg was on a peninsula, which stretched almost to the middle of the channel; and these works rendering the harbour secure for large ships of war, our trade would be exposed to the depredations of the latter. The suspension, therefore, or demolition of these works, ought to have been made a condition of the agreement by which ministers bound themselves to disarm.

Lord *Hood* said, that whilst he paid his sincere tribute of applause to the spirited and judicious conduct of ministers, he could not withhold his equally warm encomiums from the officers and seamen in general, for the alacrity and zeal with which they had entered upon the service on the late occasion; alacrity and zeal displayed in a degree unexampled in any former preparation for war, even in the most glorious periods of our history. He stated several facts to prove the uncommon expedition with which certain ships had been made ready for sea, and in particular, the squadron of rear-admiral sir Francis Drake. After mentioning the number and size of the ships that sir Francis

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had got ready for sea, in a remarkably short period, the noble lord declared, that the effect of the late active and vigorous preparations for war, could not but prove advantageous to this country, by convincing France that she was watched with a careful eye, and that the nation at home, from what had passed, had every reason to rest assured that she would be watched with the same attention for the future. But, as no man could say how long we should be permitted to enjoy the blessings of peace, he hoped that a due attention would be paid to the safety and condition of our dock yards at home and our careening yards abroad. With regard to our careening yards, he could, from his own knowledge, speak to one at Port Royal in Jamaica, which was in a state that called for immediate alteration.

Mr. *Fox* rose and observed, that he should contradict every political principle and sentiment that he had acted upon through life, were he not to give his most hearty concurrence to the sum and substance of the Speech from the throne, and the Address that had been moved upon it, because he took the substance of both to be a public avowal from the throne, and as public an acknowledgment on the part of that House, that those systems of politics, which had on former occasions been called romantic, were serious systems, and such as it was the true interest of this country to be governed by; namely, systems established on that sound and solid political maxim, that Great Britain ought to look to the situation of affairs upon the continent, and to take such measures upon every change of circumstances abroad, as should tend best to preserve the balance of power in Europe. Upon that maxim he had founded all his political conduct, and convinced as he was of its justness, he should continue to adhere to it, and consequently could not withhold his ready and sincere assent to an address admitting the maxim completely.

It was now, he observed, confessed by government, that it was necessary to come to the lower orders of the people, those who were labouring under the heaviest burthens, those who paid for their candles, their windows, and all the various necessaries of life, and say, "severely taxed as we know you are, you must nevertheless contribute something towards the expense of keeping political power upon a balance in Europe." This was open and manly; it was dictated by sound policy. Let, therefore, the expense of effecting and enforcing the late measures in the republic of Holland have been what it might, he should think the money well laid out, and would give any assistance in his power to the voting it cheerfully and freely. There was, however, in the Address, a loose word, that might possibly have been suffered to find its way into it through accident, and which he could have wished had not been there. Some passages of it also referred to points that might require a good deal of discussion; but, as the Address was wisely put together, and those matters that were most likely to create debate, mentioned with a reserve for consideration on a future day, when that House should have the documents before them necessary to give them that information, without which they could not in a parliamentary way proceed to investigate their policy and wisdom, it was not necessary for him to discuss them at that moment. He took the beginning of the Address, containing an avowal, that the situation of affairs in the republic of the United Provinces seemed likely, in its consequences, to affect the security and interest of the British dominions; and that his Majesty had acted with success upon that circumstance, to be the essential substance of the Address, and to that he gave his full assent. One observation he had to make upon the Address in that particular, and that was this most obvious one: the Address expressly stated, that the king of France had notified his intention of granting the request of the party who had usurped the government of Holland: he did not suppose the Address contained any thing but truth, because no minister would presume to put any thing but truth into the mouth of his Majesty; but although the Address contained this assertion, and directly stated that the king of France had notified his intention of assisting the party who had usurped this government, yet, if the counter-declaration was looked into, it would be there found, that it was roundly asserted, that the court of France never had any such intention. He did not, however, wish to rest upon a French declaration, or upon any French professions, whether perfectly made or clearly expressed or not. The fact was as his Majesty's Speech stated it to be, and there was no doubt, but that France had assured the party who had seized upon the government of the United Provinces, of her determination to assist them.

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Mr. Fox reminded the House, how repeatedly he had urged the perfidy and treacherousness of France in the exertion of her influence in foreign states; and that when the Commercial Treaty was under discussion last session, and he, among others, had expressed his dislike of that treaty, and his conviction, that it would not prove the bond of amity, and secure to us the continuance of the blessings of peace, how much was said of the pacific intentions of France, and of the sincerity of her professions of regard and friendship towards this country; and yet they were now told in that House from the highest authority, that this new friend and commercial ally had interfered in the affairs of the United Provinces, and promised to support that party, who were termed, in the very same speech, the usurpers of the lawful government, and, at a time too, when those who held the legal government were in alliance and connected with France. The charges of treachery and perfidiousness, which he, and various others, had on different occasions urged against France, had at the same time been sometimes thought too strong; but, strong as they might be, they were weak, indeed, compared with the charge contained in the Speech from the throne, for there his Majesty had declared explicitly, that France had signified her intention of assisting the usurpers of the legal government of the United Provinces, when those who held that legal government were in amity and alliance with her.

Mr. Fox laid great stress on this circumstance; and then proceeded to observe, that he did not think it at all necessary to inquire into the legality of the constitution of a foreign state; in the Speech, the 'lawful government' was the term made use of. He had ever thought it his duty, and the duty of every member of parliament, to consider himself the representative of the people of Great Britain, and to attend to the interests of Britons, let them be where, in what country, and at what distance they might. The preservation of our own constitution, for the sake of the preservation of our liberties, and the prosperity of Great Britain and all her dependencies, were objects immediately worthy their attention and proper for their consideration; but, he was far from thinking it was either wise or becoming for that House to apply itself to an inquiry into the legality of the constitution or form of government of a foreign state. It was sufficient for him and for the House, to consider which party in the republic of the United Provinces was most inclined to be friendly to Great Britain, and to renew a natural alliance with us, in preference to an unnatural alliance with France. His opinion, therefore, was, that the word 'lawful' applied to the word 'government' in the Address was redundant.

Mr. Fox took notice that lord Fielding had declared he was not ripe to say, that ministers ought not to have gone farther, and pushed the opportunity beyond the mere pretension of the forcible interference of France. In this he perfectly concurred with the noble lord; but he did not mean with respect to Cherbourg; he meant merely that ministers would not have gone far enough if they had stopped with the pacification with France. He took it for granted, that they had gone, and were still going much farther, since happy and fortunate as the events already ascertained had proved, and highly as he thought the measures lately pursued, with respect to the republic, were entitled to applause, he should be of opinion, that a glorious opportunity had been lost, if steps had not been taken, and were not still pursuing, for the restoration of a close alliance between this country and the republic. Without such a conclusion to the plan, it would be lamentably imperfect and incomplete.

With regard to the subsidiary Treaty with Hesse Cassel, it was impossible for him to speak to it till such time as the House should be in possession of better information upon the topic than they were at present, and therefore he would wait till the future day on which it would necessarily come under discussion. He said, he happened to have come down late to the House, by which he had lost the pleasure of hearing, what he was informed had been a most able and eloquent speech from the honourable gentleman who moved the Address. Among other things that had fallen from the hon. gentleman, he had understood that in speaking of the Treaty with the Landgrave of Hesse, the hon. gentleman had praised subsidiary treaties, and spoken of them as measures peculiarly proper and wise to be taken by commercial countries to keep their manufacturers and labourers at home. He had, Mr. Fox said, been uniformly a friend to subsidiary treaties on the same principle;

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but the principle might be carried to too great an extent. It was possible for ministers to be in possession of facts that might justify the sort of treaty that should hereafter appear to have been the treaty entered into. One great use of subsidiary treaties, however, he had ever conceived to be the power they gave the government who entered into them, of reducing the military establishment at home, and lessening the expense to the country, or at least by employing the money, by applying it to give additional strength to the navy, the natural force of Great Britain. Whether this was to be the effect of the Treaty with the Landgrave of Hesse was a matter that remained to be inquired into when the proper day of discussion should arrive, as likewise whether the Treaty mentioned in the Speech was a treaty calculated only to answer the temporary purpose of the necessity that then threatened, or a general treaty founded on a more permanent basis, and which, though it added somewhat to the national expense, was convertible to the national service, whenever occasion should require. This, Mr. Fox said, was a point which he did not clearly understand from the Speech, but upon which he should hereafter expect some information; not that he meant in that House to enter too minutely into the discussion of negociations which might be pending. He was aware that the doing so was prejudicial to the public interests, and therefore he had never been fond of either pursuing or countenancing it.

With respect to the agreement of the two courts of Great Britain and France mutually to disarm, a great deal of conversation had taken place without doors on the true meaning of the Declaration and Counter-declaration. In that respect, he conceived all that was intended by his Majesty's ministers, and the ministers of the court of France was, that each power should reduce their establishments to what they were at the beginning of the year, but be at full liberty to increase them in case new circumstances arose; for if, as some people had supposed, it was understood between the two courts that they were bound down to remain in their reduced establishment state, let what would happen, Great Britain had made a most preposterous agreement, and which, as it was impossible to be adhered to by France or Great Britain, could never have been intended by either. Mr. Fox illustrated this position by stating, that if such were the nature and meaning of the agreement, this country, in case of an attack from any other quarter than France, would not have it in her power to increase her armament without the consent of France; and reminded the House, that in all our late wars the different branches of the House of Bourbon considered the subject of each as a family quarrel, in which they were all materially concerned. If, therefore, Spain attacked us, we must remain in an ineffectual state of armament. A very material question to be answered before the meaning of the declaration, or rather the exact compliance with its terms, Mr. Fox said, could be ascertained, was, what was the real state of the naval establishments of the two countries at the beginning of the year, and what was understood by each to be a satisfactory reduction?

Another observation arose in his mind upon reading the Speech, and that was, that the condition entered into by the two courts, in respect to disarming, went only to the naval establishment, whereas, in the preceding part of the Speech, his Majesty stated, that on receiving the notification from France of her intention to assist the usurpers of the lawful government, he gave immediate orders for augmenting his forces both by sea and land. Why was not the military force to be reduced as well as the naval? The Speech gave no intimation of it, neither had the Declaration or Counter-declaration conveyed any such intention: and this naturally led him to another part of the Speech, connected with the same topic, and that was, the recommendation to the particular attention of that House, to consider of the proper means for maintaining his Majesty's distant possessions in an adequate posture of defence. He had the honour, Mr. Fox said, to have been in administration when the peace establishment was settled; if, therefore, an inadequate establishment had been then proposed, the criminality, or rather the blame of the measure, if blame were due, was imputable to him and to those with whom he acted; but not more to him or them than to the present ministry, since the same establishment had been adhered to by the succeeding administration, and continued by that House. Probably, however, his Majesty's ministers had come to the knowledge of circumstances which had convinced them, that the establishment after the peace was insufficient, and if so, they

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would doubtless lay before the House their reasons for being of that opinion, and then it would be for the House to decide upon their validity and force.

Mr. Fox, after making these cursory remarks, returned to his original position, and in glowing terms expressed his satisfaction at the system of measures lately adopted. He said, that whether Government had adopted those measures with respect to the United Provinces sufficiently soon, or whether they ought to have adopted them earlier, were matters of opinion; but he was extremely glad to find that they had at length embraced them, and he hoped when we should have connected ourselves with the United Provinces by a solid and substantial treaty, to which he could not but with reasonable expectation look forward, since the interest of each power was one and the same; that the Government would pursue the idea of taking the most effectual steps to preserve the balance of power, and carry it into execution with regard to other European states and countries. He said, he did not approve of the conduct of those statesmen, who, in order to exert their political influence in foreign courts, resorted to indirect and concealed practices, by fomenting factions and cabals. But unworthy as those means were, and illaudable in themselves as they must be acknowledged to be, so long as it was notorious that they were constantly resorted to by other powers, and most especially by the court of France, it became the duty of British ministers to endeavour to counteract her purposes in the same secret way in which she endeavoured to effect them, and therefore he wished the word 'forcible' had not been used in the Speech by way of qualifying the mention of the interference of France. So far from the 'forcible interference' of that court in the affairs of the republic of the United Provinces, being the sole interference that it behoved this country to counteract, every sort of interference, open or concealed, ought to be counteracted by us; and consequently, had the word 'interference' stood alone, and the meaning been generally expressed, in his mind, the sentence would have been more proper and applicable.

His noble colleague (lord Hood) had seemed to think that war was not so distant as might be imagined. He could not, Mr. Fox said, see any reason for despondency. So far from it, the recent events had shown that France was, in point of finance, in so imbecile a state, as well as in other particulars, that it was not in her power to break with us; and if, with all her natural and various means of recruiting herself on an emergency, and of suddenly obtaining resources, she would not engage in a war, when such an important prize as the possession of Holland was at stake; he was pretty well persuaded that she would not quarrel with this country for some time at least, or on a slight punctilio. But the best means to insure the continuance of peace was, to add to our strength, rather than trust to the weakness of our oldest and most inveterate rival. Let us enlarge the number of our alliances, insure the co-operation of other powers in the hour of attack, improve our marine, cherish and preserve it and all that belonged to that favourite service, and we might then consider the ambition of the House of Bourbon, its imbecility, or its power, as matters of equally trifling consideration. Mr. Fox here took occasion to compliment those who had the direction of naval affairs in their choice of an officer to command the grand fleet, the most important division of our maritime force. He reminded the House, that the ministry of which he had the honour to be one, had nominated the same officer to the command of the West India squadron in 1782, and that a good deal of slur had been cast on the nomination by those who at that time thought fit to question the propriety of the appointment, and to declare that officer unfit to hold the command. The recent appointment of the same officer to a still higher command, proved that the opinion he had ever entertained of the merits of admiral Pigot was not peculiar to himself, that the slur formerly cast on his administration, for having appointed the admiral to the command of the West India squadron was unmerited, and that the persons at present at the head of the Admiralty thought as highly of that officer's character and professional talents, as he, and those connected with him, had done. Mr. Fox repeated his declaration, that the substance of the Address had his hearty approbation and concurrence; and having applauded it for leaving all the other considerations to which he had alluded, as matters of reference to be discussed on a future day, and by that means avoided pledging the House to points that if was impossible for them to

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decide upon without farther information, remarked, that he should vote in favour of it with the most unequivocal sincerity.

Mr. *Pitt* observed, that his satisfaction at discovering the unanimity of the House upon the present occasion, although great, did not exceed his expectations; because he considered the Address as one concerning which, taking into view the substance of the Speech, and the circumstances in which the country stood, it might fairly be said that such matters had occurred as almost precluded the least difference of opinion. He admitted the candour of the right hon. gentleman, and heartily subscribed to his construction of the Address, and to his idea of the extent to which it carried the House, which, as the right hon. gentleman had stated it, went no farther than a general approbation of the interference of this country in the dissentions of the United Provinces, circumstanced as that republic was, with respect to France, and a congratulation of his Majesty on the event of that interference. With regard to any thing farther the Address was perfectly silent; nor did it express any opinion whatever on such particular topics as might become the subjects of future separate discussion. Nor could the right hon. gentleman be more averse than he was, to any that could tend to tie up the discretion of Parliament, or pledge it to the adoption or approbation of any system of politics whatsoever, except on a fair and direct examination of the particular subject itself, and not by implications drawn from opinions delivered on general questions and abstract considerations. Still, he declared, he was by no means less anxious than the right hon. gentleman for the time in which the several particular topics, which might arise out of the grand object of parliamentary attention, namely, the recent events which had put this country into its present desirable situation, should come to be debated. He was convinced that whatever credit Administration might have gained from the general result of their operations, it would suffer no abatement from an investigation of the particular steps which had led to that result. At present, however, he should not deviate from the example of the right hon. gentleman who had so very prudently avoided any particular discussion of that sort; for besides that he entirely approved of the principle on which the right hon. gentleman had declined entering into particulars, he should be sorry to introduce matter that might, in any degree, lead to discussions likely to overturn that unanimity which so fortunately prevailed on the present occasion. And as the right hon. gentleman had given so firm a pledge of his sincerity in the general principles he had laid down; principles perfectly congenial to his own sentiments, and, he believed, to those of all who rightly understood the interests of this country; but which the right hon. gentleman had laid down as if they had been exclusively his own, and which, in so doing, he had bound himself by the most powerful ties to maintain and support; he should not weaken those ties by endeavouring to deprive the right hon. gentleman of whatever degree of complacency he might feel from the idea of his exclusive right to the honour of first bringing them forward, nor attempt to make him less in love with them than he appeared to be at present, by assuming to himself an equal honour in having long since adopted, and been governed by similar principles, even in the course of the several transactions which had recently taken place. He should, however, say a few words on some parts of the right hon. gentleman's speech; not so much with a view of controverting his doctrines, as of showing how unnecessary any discussion of them was on the present occasion; although as the right hon. gentleman had observed, it was by no means the province of Parliament to interfere with Ministers in respect to the making of treaties, or forming of alliances during the progress of the negociations for that purpose; yet he was not backward to declare, that a strict alliance with Holland was absolutely necessary, to secure to this country those advantages which she proposed to herself from her late exertions, and a continuance of them; and that all proper steps had hitherto been adopted, and would continue to be taken for that purpose, and he had no doubt a suitable determination would soon be made to a business which had been so fortunately begun.

On the subject of subsidiary treaties, the right hon. gentleman had laid down a doctrine which he apprehended when the transaction that gave rise to it should come before the House, would be found inadmissible. The right hon. gentleman had laid it down as a maxim, that no consideration could justify the employing foreign troops under a subsidiary treaty,

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except that by so doing we could afford to make a proportionable reduction of our own military establishment, or an increase in our naval force; but he wished the right hon. gentleman to consider, whether in case this country should be under the necessity of employing troops abroad, it would then, merely for that reason, become expedient to reduce our military establishments at home, in Ireland, or our distant possessions; or whether a smaller force would then be necessary, for internal defence, and for the protection of the revenue. Certainly this doctrine could not be supported: but was it not more politic, in a situation which threatened hostilities, to have recourse to a subsidy that should afford an immediate force of 12,000 men, at a less expense, with less delay, and almost on the spot, than to begin an actual levy at home, for an armament that might eventually be found unnecessary. He was also ready to declare, that the Treaty with the Landgrave of Hesse Cassel, was originally made on the spur of the occasion, and merely with a view to the immediate expected necessity; but, since that present necessity had disappeared, it had been enlarged, and was now put on such a footing, that it would be found useful in almost any future emergency. In short, he was persuaded, that when the Treaty came to be discussed, it would appear, that it was, of all others, best calculated to render more effectual to this country the advantages she was to expect from the new situation of the Dutch republic, and from our consequent connexion with them.—With respect to the proposed increase of our establishment, for the defence of our distant possessions, the right hon. gentleman had suggested a ground of discussion, which he should be extremely unwilling to enter into; he should always be averse from the practice of considering how far measures proposed to be adopted, might have a tendency to justify or condemn such as had already been entered into, or forming a judgment of one administration from the conduct of another. Such a practice would set up a dangerous influence over ministers, and might be a temptation to them to persevere in errors of their own, lest they should appear to acknowledge them, and to abandon the most politic institutions of their predecessors, lest they should bear testimony to their wisdom. On such principles as those, he should never form his judgment, nor suffer himself to be influenced by such motives; for, if he found any establishment inadequate to its object, he should, without regarding whether he had himself made the original arrangement, or had found it ready made to his hand by a preceding administration, take the earliest opportunity of increasing it to what appeared to him to be its proper standard; for, besides that circumstances might so far vary as to make a change in the establishment necessary, in which case there could be no room for blame of any sort, he should never, to avoid the apparent acknowledgment of an error, incur the guilt of continuing it, at the expense of the safety of the empire, after he had found it to be so. But whether the present establishment had been too small originally, or whether the change of circumstances had made it so, was not the question; but what was now actually necessary; for to that the establishment ought to be immediately increased, as no person could doubt the policy of keeping our possessions in such a state of security as should leave no reasonable room for anxiety on their account, should hostilities at any future period become unavoidable, that should oblige us to appropriate to the defence of our colonies that force which the immediate object of the war might demand. And although so fortunate a crisis as the present had put this country into a situation to look forward to the lasting enjoyment of the blessings of peace, it certainly was not, for that reason, less necessary to maintain a sufficient degree of force to repel such attacks, as might possibly be made in case of any future war. The late important crisis had led him to look more carefully and minutely into the state of our several establishments, than he had before had occasion or leisure to do; the consequence of which, was a firm persuasion, that under the present situation of the country, they were not adequate to their object.

The Address was agreed to *nem. con.*

The King's Answer to the Commons' Address.] To the Address of the Commons his Majesty returned this Answer:

"Gentlemen;

"I return you my hearty thanks for this very loyal and dutiful Address. The satisfaction you express in the measures which I have pursued, and in the important events which have taken place, afford me peculiar pleasure. You may depend upon my invariable attention to the happiness and prosperity of my kingdoms."

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Copies of the Convention with France—the Treaty with Hesse Cassel—and the Declarations with France.] Nov. 29. The following Papers were presented, by his Majesty's command, to both Houses:

CONVENTION between his Majesty and the Most Christian King, signed at Versailles, the 31st of August 1787.

Difficulties having arisen in the East Indies, relative to the meaning and extent of the 13th article of the Treaty of Peace, signed at Versailles, the 3d of September 1783; and his Most Christian Majesty, with a view to remove every cause of dispute between their respective subjects in that part of the world, having thought proper to make a particular convention, which may serve as an explanation of the 13th article above-mentioned; in this view their said Majesties have named for their respective plenipotentiaries; to wit, on the part of his Britannic Majesty, William Eden, esq., Privy Counsellor in Great Britain and Ireland, Member of the British Parliament, and his Envoy Extraordinary and Minister Plenipotentiary to his Most Christian Majesty; and on the part of his Most Christian Majesty, the sieur Armand Mark Count de Montmorin de St. Herem, Marshal of his Camps and Forces, Counsellor in all his Councils, Knight of his Orders, and of the Golden Fleece, Minister and Secretary of State, and of his Commands and Finances, having the Department of Foreign Affairs; who, after having communicated to each other their respective full powers, have agreed upon the following articles:

Art. I. His Britannic Majesty again engages, "to take such measures, as shall be in his power, for securing to the subjects of France, a safe, free, and independent trade, such as was carried on by the French East India Company," and as is explained in the following articles, "whether they exercise it individually, or as a company," as well in the nabobship of Arcot, and the countries of Madura and Tanjore, as in the provinces of Bengal, Bahar, and Orixa, the Northern Circars, and, in general, in all the British possessions on the coasts of Orixa, Coromandel, and Malabar.

Art. 2. In order to preveut all abuses and disputes, relative to the importation of salt, it is agreed, that the French shall not import annually into Bengal, more than 200,000 maunds of salt. The said salt shall be delivered at a place of deposit appointed for that purpose by the government of Bengal, and to officers of the said government, at the fixed price of 120 rupees for every 100 maunds.

Art. 3. There shall be delivered annually for the French commerce, upon the demand of the French agent in Bengal, 18,000 maunds of salt-petre, and 300 chests of opium, at the price established before the late war.

Art. 4. The six ancient factories, namely, Chandernagore, Cossimbuzar, Dacca, Jugdea, Balasore, and Patna, with the territories belonging to the said factories, shall be under the protection of the French flag, and subject to the French jurisdiction.

Art. 5. France shall also have possession of the ancient houses of Soopore, Keerpoy, Cannicole, Mohunpore, Serampore, and Chittagong, as well as the dependencies on Soopore; viz. Gautjurat, Allende, Chintzabad, Patorcha, Monepore, and Dolobody: and shall further have the faculty of establishing new houses of commerce; but none of the said houses shall have any jurisdiction, or any exemption from the ordinary justice of the country exercised over British subjects.

Art. 6. His Britannic Majesty engages to take measures to secure to French subjects, without the limits of the ancient factories above mentioned, an exact and impartial administration of justice in all matters concerning their persons or properties, or the carrying on their trade in the same manner, and as effectually as to his own subjects.

Art. 7. All Europeans, as well as natives, against whom judicial proceedings shall be instituted, within the limits of the ancient factories above mentioned, for offences committed, or debts contracted, within the said limits, and who shall take refuge out of the same, shall be delivered up to the chiefs of the said factories, and all Europeans, or others whosoever, against whom judicial proceedings shall be instituted without the said limits and who shall take refuge within the same, shall be delivered up by the chiefs of the said factories, upon demand being made of them by the government of the country.

Art. 8. All the subjects of either nation respectively, who shall take refuge within the factories of the other, shall be delivered up on each side, upon demand being made of them.

Art. 9. The factory of Yanam, with

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its dependencies, having, in pursuance of the said Treaty of Peace, been delivered up by Mr. William Hamilton, on the part of his Britannic Majesty, to Mr. Peter Paul Martin, on the part of his Most Christian Majesty, the restitution thereof is confirmed by the present Convention, in the terms of the instrument bearing date the 7th of March, 1785, and signed by Messrs. Hamilton and Martin.

Art. 10. The present Convention shall be ratified and confirmed in the space of three months, or sooner, if it can be done, after the exchange of signatures between the plenipotentiaries.

In witness whereof, we, ministers plenipotentiary have signed the present Convention, and have caused the seals of our arms to be affixed thereto. Done at Versailles, the 31st of August, 1787.

Wm. Eden. (L. S.)
Le Ct. de Montmorin. (L. S.)

Treaty between his Majesty and the Landgrave of Hesse Cassel, signed at Cassel, the 28th of Sept. 1787.

Be it known to those whom it may concern, that his Majesty, the King of Great Britain, and his Most Serene Highness the Landgrave of Hesse Cassel, in consideration of the strong ties by which the interests of their respective houses are united, and having judged that, in the present situation of affairs, it would contribute to the mutual advantage of Great Britain and of the Hessian dominions, to cement and confirm, by a new treaty of alliance, the connexion which subsists between them; his Britannic Majesty, in order to settle the objects relative to such alliance, has thought proper to send to Cassel sir William Fawcett, knight of the bath, lieutenant-general and adjutant-general of his forces, his minister plenipotentiary; and his Most Serene Highness has appointed on his part, for the like purpose, Baron Martin Ernest de Schlieffen, his Minister of State, Lieutenant-general, and Knight of his Orders, and Baron Frederick de Malsbourg, his Minister of State, and Knight of the Great Order of Hesse: these ministers, being provided with the necessary full powers, have agreed to take, for the basis of the present Treaty, the treaties formerly concluded between Great Britain and Hesse; to adopt such parts of them as shall be applicable to the present circumstances, or to adjust, by new articles, those points which are necessary in a different manner. Every thing which shall not be otherwise determined, shall be deemed to subsist in full force, as is declared in the aforesaid Treaties: and, as it is impossible to specify each particular case, every thing which shall not appear to have been clearly determined, either in the present or in former Treaties, must be settled with equity and good faith, upon the same principles as were agreed to be adopted on each side, for deciding upon such matters, whether during or subsequent to the last war.

Art. 1. There shall therefore be, by virtue of this Treaty, between his Majesty the King of Great Britain, and his Most Serene Highness the Landgrave of Hesse Cassel, their heirs and successors, a strict friendship, and a sincere, firm, and steady union, so that the one shall consider the interests of the other as his own, and shall exert himself with good faith to promote them as far as possible, and mutually to prevent and remove all trouble and injury.

Art. 2. To which end it is agreed, that all the preceding Treaties, particularly of Guarantee, shall be deemed to be renewed and confirmed by the present Treaty, in all their points, articles, and clauses, and shall be of the same force as if they were herein inserted word for word, as far as they are not derogatory to the present Treaty.

Art. 3. His Majesty, the King of Great Britain, having desired to secure, for his service in Europe, a body of the Most Serene Landgrave's troops, in case the welfare of his kingdoms and dominions should require such succour; and his Most Serene Highness having the strongest attachment to his Majesty, and being sincerely desirous to give him every real proof of it, engages, by virtue of this Article, to hold in readiness for that purpose, during the space of four successive years, to be computed from the day of the signature of the present Treaty, a body of 12,000 men, composed of infantry and cavalry, or chasseurs, officers included, of which 8,000 men shall form the first division, and 4,000 the second. His Most Serene Highness reserves the liberty of putting himself at the head of this corps; but declares, at the same time, that if these troops should join a more numerous body of any other power, he shall consider himself, on such an event, purely in a military light, and, far from making any difficulty to serve under a senior general of established reputation, he would with pleasure embrace so favourable an oppor-

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tunity of gaining further knowledge, under such auspices, in a profession to which he is very warmly attached.—The first division, consisting of 8,000 men, shall be entirely composed of infantry, with its field pieces, and two companies of foot chasseurs; but his Most Serene Highness may join to them, if he thinks fit, over and above the 8,000 men, such a number of his cavalry, not exceeding at most 1,000, as may be fit for immediate service. This corps of 12,000 men shall be completely equipped, and provided with tents and all necessary camp equipage. In a word, it shall be put upon the best footing possible; and none shall be admitted into it but men fit for actual service, and acknowledged to be such by his Britannic Majesty's commissary.—The first division shall be ready to march and pass in review at the end of four weeks after the requisition for its march shall have been made, or even sooner, if possible; and the second division in six weeks, if practicable.—This body of troops shall not be separated, unless the operations of war should require it, but they shall remain under the direction of the Hessian chief, subject nevertheless to the superior orders of the general to whom his Majesty shall think fit to confide the supreme command of the whole army; and the second division shall serve only in those places where the first may be stationed, provided the plan of operations will admit of it.

Art. 4. Each battalion of infantry belonging to this body of troops shall be provided with two field pieces, together with the complement of officers, gunners, and other necessary attirail attached thereto.

Art. 5. In order to defray the expense which shall be incurred by the Most Serene Landgrave, in raising the said body of 12,000 men, his Majesty the King of Great Britain engages to pay to his Most Serene Highness, for each trooper or dragoon, completely armed, mounted, and equipped, 80 Banco crowns, and for each foot soldier 30 Banco crowns, within fifteen days after the requisition for the march of that division shall have been made. As to the levy money for the second division, one moiety thereof shall be paid upon making the requisition for marching, and the other moiety on the day of marching. The levy money shall be paid for the same description of persons that were allowed in former treaties.

Art. 6. Besides what is stipulated in the preceding article, his Majesty the King of Great Britain engages to pay to the Most Serene Landgrave, during the four years this Treaty is to continue, an annual subsidy, in the manner and proportion following; that is to say, this subsidy shall commence from the day of the signature of this Treaty, and be continued from that day to the time when the requisition for putting the corps in readiness to march shall be made, at the rate of 150,000 Banco crowns per annum, the crown to be computed at 58 Dutch pence, or 4*s.* 9*d.*$\frac{1}{4}$ English money: from the time of making the said requisition, to the day when the whole corps, as well cavalry as infantry, shall be in the pay of the Crown of Great Britain, the subsidy shall be augmented, and paid at the rate of 450,000 Banco crowns; and, during the whole time that the said corps shall be actually in his Majesty's pay, the Most Serene Landgrave shall receive an annual subsidy of 225,000 Banco crowns. When the said troops shall be sent back by his Britannic Majesty, the subsidy shall be again augmented, and continued at the rate of 450,000 Banco crowns per annum, from the day of their return into the dominions of his Serene Highness, to the expiration of the Treaty, being according to the same proportion and rule as were fixed by the 6th article of the Treaty of 1755, for a body of 8000 men; and the payment of these respective subsidies shall be made regularly by the quarter, without deduction, into the military chest of the serene Landgrave, appointed for such receipt, in the city of Cassel. And in case both parties hereafter agree, that this body of troops should exceed the number of 12,000, the subsidy shall be augmented in proportion, unless otherwise settled. His Majesty will also continue to this corps the pay and other emoluments for the residue of the month in which they shall repass the frontiers of Hesse, and actually arrive within the dominions of his Serene Highness, namely, in Hesse properly so called.

Art. 7. With respect to the pay and subsistence, as well ordinary as extraordinary of the said troops, whilst they shall actually be in the pay of Great Britain, it is agreed, that, so long as they serve in the empire of Germany, they shall enjoy the same advantages and emoluments as his Majesty allows to his German troops, according to the effective establishment on which the said body of troops

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is delivered; which shall be verified by a state signed by the respective ministers of the high-contracting parties, which said state shall have the same force as if it were inserted word for word in the present Treaty: during the time they may be employed in the Low Countries, they shall be treated upon the footing of the Dutch troops: provided that, in both cases, that is to say, whether serving in Germany, or in the Low Countries, their pay shall not be inferior to that which was allowed in former wars. And if they should be required to serve in Great Britain or Ireland, notice thereof shall be given to the Most Serene Landgrave, when they shall not only be put upon the same footing, in all respects, with the British national troops: but his Most Serene Highness hopes further, that, in case any British troops should be sent to the continent, and serve with the Hessians, his Majesty will be pleased to agree, that the latter may be then treated as the former with regard to pay, as well as other matters, the more so as his Most Serene Highness, to prove to his Majesty his earnest desire to serve him, has consented to receive a more moderate subsidy than was paid on all former occasions of this nature, since the year 1726. These allowances, if granted, shall be paid into the military chest of his Most Serene Highness, without any deduction or abatement, in order that the distribution thereof may be made to his troops.

Art. 8. In case any of the regiments or companies of the aforesaid corps should, by any unfortunate accident, be ruined or destroyed, in the whole or in part; or that any pieces of artillery, or other effects belonging thereto, should be taken by the enemy, his Majesty the King of Great Britain will defray the expense of recruiting and re-mounting the same, as well as make good the value of the said field pieces and effects, in order that they may be again completed and rendered fit for service. The recruits raised on this occasion shall be regulated upon the footing of those which were furnished to the Hessian officers, in virtue of the Treaty of 1702, Article 5th, to the end that the whole corps may always be kept up, and sent back in the same complete state in which it was originally furnished. The recruits annually required shall be delivered to the English commissary, disciplined and completely equipped, at such time and place as his Britannic Majesty shall appoint.

Art. 9. It will depend on his Britannic Majesty to retain this body of troops in his service the whole time of the continuance of this Treaty, in order to employ them wherever he may think proper (provided it be not on board his fleet, or beyond sea) excepting for the defence of the kingdoms of Great Britain and Ireland, in which case these troops shall enjoy in all respects, and without any difference whatever, the same pay and emoluments as are granted to the English troops. And when his Majesty the King of Great Britain shall be pleased to send back the said troops, he shall give three months previous notice thereof to his Most Serene Highness, and cause one month's pay to be remitted to him for their return, providing them with the necessary means of transport gratis.

Art. X. In case the Most Serene Landgrave should be attacked or disturbed in the possession of his dominions, his Britannic Majesty promises and engages to send back to him, if required, the said body of troops, allowing them not only one month's pay, but also furnishing them gratis with the means of transport necessary for their conveyance. As likewise to give to his Most Serene Highness all such succour in troops as the exigency of the case may require; which assistance shall be continued to him till he shall have obtained full security and due satisfaction. And the Most Serene Landgrave on his part also promises, that in case his Majesty the King of Great Britain shall be attacked or disturbed in his kingdoms, dominions, countries, provinces, or towns, he will afford him, in like manner, all the aid which may be in his power to give him, which shall be in like manner continued until his Majesty shall have obtained a good and advantageous peace. If it should happen that, in consequence of the present troubles, a war should be kindled in Germany, and become general, his Britannic Majesty promises, as far as possible, to provide for the security of the dominions and possessions of his Most Serene Highness, and to direct the military operations of his armies, as far as circumstances may permit, in such a manner as to cover and spare the territories of his Most Serene Highness as far as may be. If however, notwithstanding the precautions which may be taken for this effect, the territories of his Most Serene Highness should suffer an invasion from

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the enemy on account of this alliance, and of the present Treaty, his Britannic Majesty will endeavour to procure for the said Landgrave an indemnification proportionable to the loss that may be occasioned thereby, according as has been heretofore done on similar occasions.

Art. 11. In order to render this alliance and union still more perfect, and that no doubts may be entertained by the parties concerned of the certainty of these succours, which they have to hope for by virtue of this Treaty, it is expressly agreed, that, for the better judging hereafter of the extent and meaning of this alliance, and of the succours therein stipulated, it shall be deemed sufficient that either of the parties be actually attacked by force of arms, without such parties having previously employed open force against the assailant.

Art. 12. The sick belonging to this corps of Hessian troops shall remain under the care of their physicians, surgeons, and other persons appointed for that purpose, subject to the orders of the general commanding the corps of that nation, and they shall have the same allowances as his Majesty grants to his own troops.

Art. 13. All Hessian deserters shall be faithfully delivered up, wherever they may be found, in the places dependent on his Britannic Majesty; and all possible care shall be taken that no person whatever, belonging to this corps of troops, shall be permitted to establish or settle himself in his Majesty's dominions without the consent of his Sovereign.

Art. 14. The raising of recruits in Germany having of late become much more expensive than formerly, on account of the numerous armies kept on foot, and some difficulties having arisen relative to the vacant pay, which is to be regarded as the principal fund for defraying the expense of recruiting, it is agreed, that at the spring review made before the opening of a campaign by his Britannic Majesty's commissary, the corps shall either be complete, or the pay for those wanting be stopt; on the other hand, the pay for those who may be wanting to complete, during the interval between one spring review and another, shall not be stopt, but is to be advanced, without deduction, for the full establishment of the corps; and, instead of the sum formerly allowed for each recruit, to replace one killed, or three wounded, it is agreed, that, in lieu thereof, 12 Banco crowns per head shall be allowed for every recruit, without distinction, that shall be raised to supply their places; but it is at the same time to be understood, that this stipulation extends only to the particular object here in question.

Art. 15. This Treaty shall be ratified by the high contracting parties, and the ratifications thereof shall be exchanged as soon as possible.

In witness whereof, we the undersigned, being furnished with full powers from his Majesty the King of Great Britain on the one part, and from his Most Serene Highness the reigning Landgrave of Hesse Cassel on the other part, have signed the present Treaty, and have caused the seals of our arms to be set thereto. Done at Cassel, the 28th of September, 1787.

(L. S.) W. Fawcett.
(L. S.) Mart. Ernest de Schlieffen.
(L. S.) Fred. Baron de Malsbourg.

Declaration signed at Versailles the 27th October, 1787, by the Duke of Dorset and Mr. Eden.

The events which have taken place in the republic of the United Provinces, appearing no longer to leave any subject of discussion, and still less of contest, between the two courts, the undersigned are authorized to ask, whether it is the intention of his Most Christian Majesty to carry into effect the notification, made on the 16th of September last, by his Most Christian Majesty's minister plenipotentiary, which, by announcing that succours would be given in Holland, has occasioned the naval armaments on the part of his Majesty; which armaments have become reciprocal?

If the court of Versailles is disposed to explain itself on this subject, and upon the conduct to be adopted towards the republic, in a manner conformable to the desire which has been expressed on both sides, to preserve the good understanding between the two courts; and it being also understood, at the same time, that there is no view of hostility towards any quarter, in consequence of what has passed, his Majesty, always anxious to concur in the friendly sentiments of his Most Christian Majesty, would agree with him, that the armaments, and in general all warlike preparations should be discontinued on each side, and that the navies of the two nations should be again placed upon the

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footing of the peace establishment, as it stood on the 1st of January of the present year.

COUNTER-DECLARATION, signed at Versailles the 27th October 1787, by the Count de Montmorin.

The intention of his Majesty not being, and never having been, to interfere by force in the affairs of the republic of the United Provinces, the communication made to the court of London, on the 16th of the last month, by Monsieur Barthelemy, having had no other object than to announce to that court an intention, the motives of which no longer exist, especially since the King of Prussia has imparted his resolution, his Majesty makes no difficulty to declare, that he will not give any effect to the Declaration above mentioned; and that he retains no hostile view towards any quarter, relative to what has passed in Holland.—His Majesty, therefore, being desirous to concur with the sentiments of his Britannic Majesty, for the preservation of the good harmony between the two courts, agrees with pleasure with his Britannic Majesty, that the armaments, and in general all warlike preparations, shall be discontinued on each side; and that the navies of the two nations shall be again placed upon the footing of the peace establishment, as it stood on the 1st of January of the present year.

JOINT-DECLARATION, signed at Versailles the 27th October 1787, by the Duke of Dorset, Mr. Eden, and the Count de Montmorin.

In consequence of the Declaration, and Counter-Declaration, exchanged this day, the undersigned, in the name of their respective sovereigns, agree, that the armaments, and in general all warlike preparations, shall be discontinued on each side; and that the navies of the two nations shall be again placed upon the footing of the peace establishment, as it stood on the 1st of January of the present year.

Motion for the Notification of France to interfere respecting the Affairs of Holland.] Nov. 30. Mr. *Fox* said, that in his opinion, there was a paper exceedingly material for the information of the House, in order to enable them the more fully to comprehend the subject appointed for discussion, in the possession of ministers, which was not among the papers already presented; and that was, a copy of the Declaration of the king of France, to support the insurgents in Holland, which in his Majesty's Speech was stated to have been made to his Majesty. If ministers had such a paper, he conceived there could be no objection to laying it on the table, more especially as it must obviously be explanatory of a very important fact. Since he was upon his legs, he would mention another matter which required explanation. He alluded to that part of the Counter-Declaration of the court of France which refers to a paper of the king of Prussia, in which his Prussian Majesty imparted his resolution, as therein mentioned. Without this paper it would be almost impossible to understand the Counter-Declaration, and therefore he hoped ministers would either state its contents or produce it.

Mr. *Pitt* could not see for what reason the copy of the notification of the French king was thought necessary to be laid upon the table, although a variety of reasons flashed upon his mind to prove that producing it would be highly improper. The fact was, that the notification in question was mixed with other matter, in an official dispatch, dated the 16th September, and received from the court of France by their minister in London, and communicated by that minister to his Majesty's servants and read by them to his Majesty in council. The other parts of the dispatch were certainly of a nature by no means proper to be laid upon the table. With regard to the resolution of the king of Prussia, as mentioned to have been imparted in the Counter Declaration of the court of France, he would make himself fully master of it against the day appointed for the discussion of the subject, and, if it should be then thought necessary, would come prepared to give the House the fullest information relative to its nature.

Dec. 3. Mr. *Fox* observed, that notwithstanding the objection made by the Chancellor of the Exchequer a few days ago, he could not but think it absolutely necessary, that the notification of the court of France, of its intention to interfere by force, in support of those who had usurped the government of Holland, which had been stated in his Majesty's Speech, as the cause of the warlike preparations made by this country, should be laid before the House, in order to enable it more accurately to judge of the propriety of the steps

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pursued by government in consequence of such notification. Parliamentarily speaking, the House had not any proof before them, that the court of France had ever notified its intention to support the usurpers of the government in Holland; but, on the contrary, among the documents at present in their possession, they had a state paper (the Counter Declaration) directly and expressly declaring, that France never had it at any time in her intention to succour the party, commonly called the French party, in Holland. If, therefore, a copy or an extract of the dispatch or paper, conveying the notification of the court of France, was not put upon the table, their information, as a ground of parliamentary proceeding, would be lamentably imperfect. In fact, they would be called upon to pronounce their approbation of the late martial preparations, and of the expenses thereby incurred, while the only evidence they were permitted or enabled to judge from, contained a broad and gross declaration that there never had existed a reason for those preparations, and that declaration solemnly made in a public instrument. With regard to the difficulty of procuring a copy of the notification in question, from the circumstance of the dispatch in which it was conveyed having been made through the French ministers here to the Secretary of State, it was well known to all acquainted with the Secretary of State's office, that there was such a thing as a verbal insinuation in writing (strange as the terms of the expression might appear) of that sort of communication, that always remained in the office. Nor was it to be contended that no copy remained, because the dispatch had been merely read to the Secretary of State, since his Majesty's ministers would scarcely wish to have it imagined that they transacted business in so loose a manner, as to suffer any communication of importance, to rest on so transient a circumstance as the fidelity of their recollection of the terms in which it had been made. Undoubtedly a note was taken of every notification that was made personally, and that note must necessarily remain in the office. Convinced of these particulars, he felt himself justified in moving, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, copies or extracts of the notification of the court of France, of the intention of the Most Christian King to interfere respecting the affairs with Holland."

Mr. *Pitt* contended against any necessity whatsoever, for the House to be in possession of the exact copy of the notification in question, and having already been informed by the Speech, that such a notification had been made, there could be no argument offered in support of such a motion, unless there existed a doubt of the fact of such a notification having been made; for the form and manner of it was, certainly, not of sufficient importance to warrant the interference which Parliament were now called upon to assume. The very terms of the motion rendered it inadmissible; for it was not to be supposed that the Most Christian King had notified, in express terms, "that he was determined to support those who had usurped the government of Holland." On the contrary, it had been only stated, "that his Most Christian Majesty having been applied to by the subsisting government of Holland for assistance and succour, had promised to comply with their request." Now, although the king of France had not described those persons as usurpers, yet they were so considered by the King of Great Britain and his ministers, and as such described in his Majesty's Speech. Neither had the king of France expressly declared, "that he would interfere in the internal concerns of the United States by force;" but he had notified, that the States of Holland having, on the approach of the Prussian army, applied for assistance against that armament, he had determined to afford them assistance; a measure which, though not a direct interference in the internal concerns of the provinces, appeared to his Majesty's servants as one that must eventually have had a material effect on their internal concerns; in consequence of which, they directed their operations accordingly. But those were not the only objections to the motion, for the very substance of it was perfectly inadmissible. This he proved by explaining to the House what the nature of the dispatch was, in which the notification in question was conveyed. The notification had been, he said, literally a verbal insinuation, but not in writing, for no copy of it had at first been taken, though afterwards his Majesty's ministers had been furnished with a full and complete copy; the contents were a general system of reasoning on the affairs of the provinces, and a justi-

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fication of the manner proposed to be adopted, or at least an attempt to justify it; and an answer was returned to it of a similar description, containing arguments and reasonings calculated to overturn those which were offered in the notification. Now, would any gentleman who believed that such a notification had absolutely been made, and who did not propose to institute any criminal inquiry into the conduct of ministers respecting the late preparations—would any gentleman wish, merely for curiosity, to bring forward an inquiry into the circumstances of a controversy which, though now happily terminated, had been near involving the crowns of France and Great Britain in a war.

The motion was negatived.

Debate in the Commons on the Hessian Subsidy.] Dec. 5. The House being in a Committee of Supply, Mr. Pitt moved, "That 36,093*l.* 15*s.* be granted to his Majesty, for defraying the Charge of Subsidy, which will be due to the Landgrave of Hesse Cassel for the year 1788, pursuant to Treaty."

Mr. *Fox* observed, that he had expected that the House would have received some explanation of the nature of the Treaty, by which they were called upon to vote the sum stated in the motion. He had on a preceding occasion, generally adverted to the Treaty that was now the subject of consideration, and had asked, whether it was to be considered as a mere temporary expense, like the rest of the charge of the late armament and preparations, or to be regarded in a more permanent light, as an expense to be continued with a view to the future situation of this country respecting Holland and other continental powers. As there was a great deal of difference in these two views of it, and different considerations would necessarily arise from each, he conceived it highly proper that the House, previous to their voting of the money, should receive some explanation respecting it, in order to know the full extent of their vote. Another matter that appeared to him to call for observation was, that in the Treaty it was stipulated, that if Hessian troops were required to serve in Great Britain and Ireland, they should be put upon the same footing as British national troops. Now, as he did not suppose that it was meant that foreign troops should be brought at any time into this kingdom or Ireland, without the previous knowledge or consent of Parliament, he saw no necessity for the stipulation; because if ever a necessity should arise for the aid of foreign troops in England or Ireland, and the necessity should be sufficiently urgent to palliate the employment of foreign troops, and reconcile the people to the measure, an adequate number, he conceived, might be obtained upon the condition of being treated as British soldiers, without any Treaty having been in existence. With regard to the exception also of the Hessian troops from being liable to be called into service no where but in Great Britain and Ireland, unless in Germany and the Low Countries, he thought it an unfortunate exception; because, under the construction of the Treaty, he conceived that Hessian troops could not be applicable to service in the West Indies, or in Gibraltar. If the exception had been the other way, he should have thought it better; because, in all probability, Hessian troops would never be required to serve in Great Britain and Ireland; but might be of use in Gibraltar, in America, and in the West Indies. It was not very likely that a future war would commence in the manner that the late war had done; but it was not impossible, and it was to be remembered, that Hessian troops were then employed at Gibraltar and in America. A great deal depended in forming a judgment of the Treaty under consideration, upon a knowledge of the negociations then pending with other foreign powers. He had, on the first day of the session, observed, that he meant not to press for an improper communication, nor was it his wish, at that moment, although without such a knowledge it was impossible to decide upon the merits of the Treaty in question; but he hoped, that voting for the sum then moved for, would by no means pledge the House, or preclude him or any other gentleman, from examining into, or objecting to, any future measure that might be proposed to Parliament, as a consequence of the Treaty.

Mr. *Pitt* said, that in introducing the motion he had avoided entering into any reasoning on the subject, not only with a view to save the time of the House, but also because he really could not conceive what objections could have been made to the Treaty, or what explanations could have been necessary, until he should have heard them pointed out. With respect to the first point on which the right hon.

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gentleman had demanded an explanation, he thought he had given every possible information on that head on the first day of the session. It had then been asked, was the Treaty with the Landgrave of Hesse, a Treaty made merely with a view to the then present subsisting exigency, or for a permanent purpose, as a resource in all future cases of necessity? And to this he had answered, that although it certainly was at first entered into merely as part of the preparation that was made for the expected commencement of hostilities, yet it had afterwards been found advisable and necessary, from the new situation in which the recent course of events had put this country with respect to the powers of the Continent, to extend and prolong it; and it was now become a permanent resource for this country in case of any future emergency, as long as the operation of the Treaty should last, which was for four years. As to the apprehension of the right hon. gentleman, that the vote which the Committee was called upon to give might be construed into a recognition of the right of the Crown to introduce foreign troops into the kingdom without the consent of the Parliament, there certainly could not be any ground for such a suggestion; the only question here was, whether it was politic for this country to give the Landgrave of Hesse 36,000*l.* per annum by way of a retaining fee, as it might be termed, to hold him in our interests, and for an assistance, in cases of need, of 12,000 troops, without any designation made on the part of the House, of the place or manner in which those troops were eventually to be employed. With regard to such measures as his Majesty might find necessary to take in case of a future war within the kingdom, it was impossible at present to argue upon them, but there was no foundation for any apprehension that the House would, by complying with the present motion, give any sanction to the bringing foreign troops into the kingdom in time of peace. As to the latter part of the right hon. gentleman's speech, in which he spoke of the narrow limits to which the benefits of the treaty were confined, by the stipulation against sending the subsidiary troops beyond sea, any objection on that ground must arise out of considerations drawn from the former situation of this country, and not from the present. In the last war, it was true, such were the unfortunate circumstances of Great Britain with respect to the continental powers, that there was no possible use for any troops whatsoever on the continent. We had then no connexion with any power in Europe, and of course could have no occasion for any army to be employed in Europe, except for the purpose of our internal defence; but our situation was now essentially different, as in consequence of our late interference in the concerns of the European powers, and the brilliant success which had resulted from that interference, we had formed a connexion with some of them, which, in case of a war, might afford us an opportunity of employing an armament on the continent with singular advantage, and by using foreign troops in that kind of service, we should be the better enabled to direct our natural force, and particularly that of our marine, to such other objects as might be thought more immediately necessary. It would not, he said, be thought necessary for him to enter into an accurate detail of the state and tendency of the negociations then depending with other powers; but he asked the House, when they compared the splendour and glory of this country in former wars, when she was connected with other European powers, and her humiliation and depression in the last, when she was deserted by them all, when they considered the respectable figure we made in the course of the recent event,—whether the contrast which such a review brought to their minds, did not make them anxious to cherish every measure that should tend to revive and cement similar connexions; and was any thing more likely to have that tendency than our having a resource for that supply of a great military force immediately at hand, which, while it answered every necessary purpose of eventual success to our allies, and co-operation with them, was at the same time attended with all the advantages of œconomy? On the whole, as it was universally admitted that continental connections were beneficial and necessary to this country, as it could not be denied that such connexions might render a military force on the continent in the service of this country indispensable, and as the sum advanced for the purpose was by no means exorbitant, he could not see that any reasonable ground of complaint could be urged against the Treaty.

Sir *James Johnstone* said, that he could not mention without indignation the length

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of time during which the princes of Hesse had sold the blood of their subjects, and we had been the purchasers. He could not give his consent to the Treaty; and as to foreign troops being introduced into England, Scotland, or Ireland, he saw no necessity for it. With regard to England, we had our militia to defend us from the dread of an invasion; in Scotland, indeed, they had no militia, but they breathed as pure an air as we did in the South, and loved their liberties as well. If, therefore, a foreign foe were to invade Scotland, he had no doubt but they would find there was enough of spirit and love of freedom, in that part of the kingdom, to stimulate the Scotch to protect themselves. In Ireland there were 60,000 volunteers, and surely their courage was too well known to countenance the supposition that we should send 12,000 Hessians to dragoon them.

Mr. *Burke* declared, that although he had remained silent on the first day of the session, he had never given a vote with more heartfelt satisfaction; and he took that opportunity to declare, that he highly approved of the system of measures pursued with respect to Holland, and the renewal of continental connexions. That was the system on which alone this country could expect to stand with safety and with honour. It was during our adherence to that system that Great Britain had been a glorious country, and the object of the admiration of surrounding nations. With regard to the constitution of other countries, he agreed perfectly with his right honourable friend, in the opinion delivered by him on a former day, that it was not necessary for us to trouble ourselves with definitions of the legality of the government of this or that country, or the strict construction of its constitution; but it was enough if we saw an opportunity of restoring that party to power, which was most likely to prove a valuable friend to Great Britain in the day of future difficulty. The law of nations allowed this, and it was certainly right to seize upon such an opportunity whenever it offered. Another maxim he held as a maxim of sound policy to pursue, and that was, where the interference of France could be counteracted, and her influence deprived of its power, to seize the moment and the means of effecting both objects. We could not be in the wrong, whenever this was probable to be achieved. It was enough to know, that a French party in Holland had prevailed, for us to endeavour to drive that French party away, and disarm it of its power. With regard to subsidiary treaties as applicable to continental connexions, and a necessary branch of that system, generally considered, they were wise measures. But in proportion, as the system was a system founded in sound policy, it ought to be constructed and put together with the most wary caution, so that all parts fitted and adhered closely, and gave the whole a degree of stability and strength to insure its permanency. The utmost care ought certainly to be taken to prevent such excellent systems from being disgraced and discredited by imperfections, and injurious consequences resulting from want of foresight at the period of the original negociation and conclusion of subsidiary treaties. The mischievous consequences it was, that had put so many great and good men out of humour with them, and therefore in proportion to the real policy of the measure itself, a provident regard ought to be had to the prejudices of mankind in order at least not to make them less fond of them. Under this view of subsidiary treaties, much might be said of the Treaty with the Landgrave of Hesse, the excellence or disadvantage of which depended on a variety of considerations and circumstances, of the existence of which he was wholly ignorant, but he was ready to grant ministers a bill of credit, for the existence of such of them as could alone constitute the Treaty on the table a beneficial treaty for this country. Upon the face of it, and its prominent features considered only, it was an advantage to Great Britain to engage in a treaty for that purpose with the Landgrave of Hesse, who was young, of a martial spirit, fond of military life, and an able general. The Chancellor of the Exchequer had done wisely in giving the Landgrave what he called a retaining fee; because, if a fit cause should arise, the Landgrave of Hesse would prove an excellent counsel on our side, and would undoubtedly produce more powerful arguments in our behalf, than, he feared, he should be able to produce in the cause in which he should shortly have to plead at the bar of the House of Lords. The Landgrave of Hesse was an able general, and as there were few able generals in the world, he had no objection to our having an able general in our service. But, the whole effect of the Treaty was not, as the right hon. gentleman had stated it,

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merely the giving the Landgrave of Hesse a retaining fee of 36,000*l.* per annum; the Landgrave of Hesse was too wise a prince to engage to furnish Great Britain with 12,000 men, whenever required, for the mere paltry consideration of 150,000 Banco crowns per annum. The quantum of Banco crowns was not the only, nor, in fact, was it the most considerable advantage to be eventually derived from the Treaty by the Landgrave. Those who looked at the Treaty, and thought that it was merely a treaty of subsidy, left the great question out of the case, and judged only from one side of the object. By the Treaty, this country stipulated to continue to guarantee the Landgrave of Hesse, and might therefore be eventually involved in a war in consequence of it. Should that happen, instead of receiving the aid of 12,000 troops from the Landgrave, we should perhaps have to assist that prince with an army of 100,000 men. The right honourable gentleman could not deny this, because it was the *casus fœderis*, and in the Treaty. It required, therefore, more consideration to form a judgment upon the balance of advantage and disadvantage likely to result from the Treaty, than might have been at first imagined.

He took it for granted that ministers had taken, and were yet taking, the necessary measures to guard against the Landgrave's being involved in a war, or to provide for his support in case of an attack, on account of his having made the present Treaty. France was just now in an humiliated state, and had felt it prudent to withhold her arms and her resolutions; she could not, however, but be mortified at what had passed in Holland, and though from a variety of circumstances she chose to let her anger sleep, it ought to be remembered, that it was only asleep, but not extinct. France it was well known, was a powerful nation, and could easily recruit her strength; an opportunity might offer to entice and encourage her to attack the Landgrave. If, therefore, the system of continental connexions (of which he took the Treaty to be a small part only) was not formed with a provision for that event, the system was an inadequate and a bad system, and of consequence the Treaty a disadvantageous Treaty. Looking at the Treaty as a measure single and insulated, he declared that it was the last measure which he would give his consent to; but as a part of a system, it might be a wise measure, and as such he should vote for it. He took it for granted that Prussia was with us in the Treaty, and that the Prussian Monarch and not the Landgrave was the principal in it. He spoke of the advantages to be derived from an alliance between Great Britain, Prussia, Hesse, and Holland, in case of a war, and observed, that though it was material for us to take Holland out of the hands of France, in one point of view only could she be regarded as a very useful ally to Great Britain in case of a war with France, and this was in giving us the advantage of her ports in the East Indies. In respect to aids of men and money from Holland, we could not build much upon them. There were, however, other powers in Europe to be looked to for alliance; and in particular the emperor, who had abundant resources. Russia likewise was a most desirable ally, but both Russia and the Emperor might now be thought to have their hands full. That circumstance, however, would continue for a time only, and both would probably be shortly disengaged. Russia had of late years grown to a state of considerable power and influence in the affairs of Europe, and had even been found to have her weight in the scale at a time when she stood single in a war with the Turks. With Russia and Prussia and Holland for our allies, he declared that he should little care for the rest of the world.

In treating of the recent transactions in Holland, Mr. Burke took occasion to mention the King's Speech, and said, it was usual to hold it out as a morsel of finished eloquence as a proof of the minister's powers of composition. The late Speech was certainly an extraordinary performance; but if any man was to make it, and the facts it contained, the grounds of historical narrative, he would certainly risk a good deal of ridicule. Instead of grave history, it partook more of the nature of an epic poem, rather resembling an agreeable allegory, or a romance in the style of ancient chivalry. It reminded him pretty strongly of Palmerin of England, Don Belianis of Greece, and other books of that romantic nature, which he formerly had lost much of his time in reading. He was glad to find, however, that the gallantry of those kings and princes who had so eminently distinguished themselves when chivalry prevailed, was revived. Let any gentleman examine the vein in which the Speech proceeded, and they would instantly per-

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ceive the strong resemblance it bore to the subjects of ancient romance. A chivalrous king, hearing that a princess had been affronted, takes his lance, assembles his knights, and determines to do her justice. He sets out, instantly, with his knights in quest of adventures, and carries all before him, achieving wonders in the cause of the injured princess. This reminded him of the ancient story of a princess named Latona, who, having been insulted by a nation, like the Dutch, appealed to Jupiter for satisfaction, when the god, in revenge for her wrongs, turned the nation that had affronted her, into a nation of frogs, and left them to live amongst dykes and waters. Mr. Burke remarked, that although the king of Prussia had, professedly, set out merely to obtain adequate satisfaction for the injury done his sister, his army by accident took Utrecht, possessed themselves of Amsterdam, restored the Stadtholder, and the former government and all this at a stroke, and by-the-bye, which put him in mind of a verse in Cowley's sprightly ballad called The Chronicle, which he had often read with pleasure:

> But when Isabella came
> Arm'd with a resistless flame,
> And th' artillery of her eye,
> Whilst she proudly march'd about
> Greater conquests to find out,
> She beat out Susan, by-the-bye.

Mr. Burke enforced his former observations, that what had happened in Holland could not but remain lodged in the bosom of France, to be opportunely used, as a justification of some future quarrel and resentment on her part; and that we ought, therefore, to expect such an event, and by wise alliances to strengthen ourselves, and put it at a greater distance, as well as prepare against its arrival, let that happen when it might. He reminded the House of the objections and jealousies which this country had formerly made and manifested against the employment of foreign troops at home, and particularly in 1755, when the Hessians were last employed in England. At that period the popular alarm had increased to such a height, that their dread of the danger which threatened at the time, was much less than their dread of the means resorted to for its prevention. Indeed the great argument used in favour of the militia at its first institution by lord Townshend, lord Chatham, and other patriots, who were now sleeping in their graves, with their heads resting on their laurels, was, that the creating such an internal force for the immediate defence of the kingdom, would in future prevent the necessity of recurring to the unpopular expedient of employing foreign troops within the realm. Mr. Burke begged in the mention of these facts, to be considered rather as the narrator of jealousies and sentiments which had prevailed, than as the foreteller of their revival in consequence of the present Treaty with the Landgrave of Hesse. He trusted there would be no occasion to call them again into existence, and was willing to believe that ministers had providently guarded against the possibility of there being justifiable reasons for their future entertainment.

The motion was agreed to *nem. con.*

Poor Laws.] Dec. 6. Mr. *Gilbert* begged leave to trespass on the attention of the House, whilst he adverted to a subject which he had much at heart, and in which the House had, in a very laudable manner, interested itself these two sessions past; and he did not doubt, but through the assistance of the House, he should be able to complete the whole, in a manner that would reflect credit on their humanity, in their attention to a body of the community that could not redress themselves otherwise than through their medium. He believed it was unnecessary to point out those to whom he alluded—the poor of this kingdom. A Bill had passed last session, requiring the ministers, church-wardens, and other proper officers to make returns of all charitable donations within the parishes or precincts over which they presided; in consequence of this, returns to a large amount were accordingly made. The House then ordered, that those returns should be printed for the use of the members, which was likewise done; but so imperfectly, that the main object was very much defeated. To remedy this, it was deemed eligible to send circular letters to the ministers, church-wardens, &c. in order to rectify the defects in the former returns; and to reduce the whole into a more regular system. This had a very good effect, insomuch, that within these few months, not less than 2,700 returns had been made. His motion at present therefore was, "That a committee be appointed to take those returns into consideration, and to report their opinion how far the Act made in the 26th of his present Majesty, for the pur-

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pose of enforcing those returns, had been complied with."

The motion was agreed to.

Dec. 10. Mr. *Gilbert* rose and said, that having employed much of his thoughts for a series of years about the poor and the poor laws, he had frequently committed to print such things as occurred to him on those subjects. He had been repeatedly called upon this session to declare what he meant to do in that business: his answer had been, and then was, that he was ready and anxious to do every thing in his power, in concurrence with other gentlemen, to correct the abuses complained of, and to introduce a better and more economical system. What that system ought to be, rested not with him, or a few individuals, but with the wisdom of that House to determine. Various plans had been suggested and proposed for that purpose, some by him, some by other gentlemen. He trusted every man who would put himself forward in so arduous and difficult an undertaking, though not qualified to administer a perfect and complete remedy, ought to have some degree of merit with his fellow-citizens, and instead of discouragements, seemed intitled, if not to their support, at least to their countenance and candid hearing. Mr. Gilbert said he had received some discouragements in the pursuit of the present work. If they were intended to check him in his progress, they had not had their effect. He saw the object so very important, and felt himself, after a long and severe application, so well acquainted with the subject, and the necessity of some reform, that as long as he had the honour of a seat in that House, and had health to do his duty, he should be inclined to exert the utmost of his endeavours to bring about some necessary regulations. He was not so wild and extravagant in his ideas, as to think that he, as an individual, could form and digest a plan equal to so great a work, but he trusted, that the pressing necessities, and cries from all quarters, poor and rich, must have their weight, and could not fail, ere long, to stimulate those who had ability and consequence in that and the other House of Parliament, to concert some measures for rescuing this country from the great oppression which it felt under the present poor laws, and the wretched mode of executing them. These were evils of a dangerous tendency, and were known to be increasing daily. As to the remedy, he was not sanguine enough to think that a bill which he brought in the last session, and had a considerable share in preparing and settling, was perfectly right, and did not stand in need of any alterations and corrections; but though not perfect, there were, he flattered himself, some parts of it which might be useful. Other gentlemen had likewise prepared and brought in a bill upon Mr. Acland's plan: he did not find that they thought that perfectly accurate. If it could be made so, and its principles would be quietly submitted to, and carried into execution, he should entertain a very favourable opinion of it. That was his first idea, and after much deliberation and conversation with many members of that House, to whom he communicated it, it was abandoned by him, from an apprehension that it could not be executed upon so hazardous and precarious a foundation. Mr. Gilbert having stated the apparent difficulties in the course of the business, said it might be justly expected he should do something more than state the grievances, and the difficulties in removing them, viz. that he should suggest some measures as the result of his labours and deliberations upon that subject, which might be proper to be submitted to the consideration of members during the approaching recess, he would, therefore, proceed to do it with the utmost deference and respect to the House. An entire new system, upon one general plan for all parts of the kingdom, appeared to him essentially necessary. His general ideas upon it were in print, and had, he believed, been seen by most, if not all, the members of both Houses, having been circulated at a considerable expense to himself. There were different opinions both with respect to the plan and the mode of effecting it, which he had discovered upon conversations that he had been honoured with from many very respectable persons. The principal thing to be attended to was, the digesting a proper plan for this very great and general system of police, and the fixing a proper mode for carrying it into execution, without introducing any commotions which would be likely to disturb the peace and tranquillity of the country. The only plan which seemed to him practicable and advisable for that great purpose was, the forming counties into districts, not too small, and having a house of industry in each, for the recep-

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tion and employment of those who wanted relief. This should be placed in or near some considerable town, where numbers of gentlemen and capital tradesmen might be found to attend the government and regulation of it. He had lately taken a great deal of pains to investigate this, and had inspected very minutely one of those houses of industry, wisely instituted and admirably conducted, at Shrewsbury, and six parishes were incorporated, and in the course of between three and four years had reduced their expenses about one half, after providing the best accommodations for the poor, with respect to the care of their morals, their employment, clothing, lodging, diet and medicinal assistance. He had, by the indulgence of the worthy directors of that institution, been furnished with all the particulars which he should be prepared to lay before any committee which might be appointed on this subject after the holidays. That plan might be considered with the others in a general committee of the House, if thought fit, and when a proper one had been formed and well digested for the whole kingdom, it might be reported to the House, and necessary proceedings taken upon it. It seemed, therefore, necessary for obtaining a redress of grievances complained of, to form a committee to consider the subject at large, and to point out such plan for the purpose as they should think best. It was with great diffidence in his own judgment, and the utmost deference to the House, that he had been induced to throw out these suggestions, hoping they might call forth the attention of gentlemen of the most distinguished characters and abilities on both sides the House; to effect so arduous a work would require the greatest exertions and the most perfect harmony.

Debate in the Commons on the Augmentation of the Army.] Dec. 10. The House having resolved itself into a Committee of supply to which the Army Estimates were referred,

The *Secretary at War* said, that the estimates on the table, contained an alteration in regard both to the number of troops to be employed in the service of the ensuing year, and consequently of the extent and amount of the expense, and which he should endeavour to state as succinctly as possible. He mentioned the recent events on the continent, and the approbation which all ranks had concurred in bestowing on ministers for their successful exertions in relation to those transactions, He said they would ill have merited any praise, if, among the considerations of an important and momentous nature that those events necessarily suggested, their attention had not been extended to our distant possessions. In minutely examining their situation and circumstances, and comparing the military establishment settled at the peace as applicable to their protection, it had been found that they were greater subjects of anxiety than comfort; that the military establishment was inadequate to their defence against a surprise by an enemy, and that suffering them to remain with only their present number of troops would expose them to the danger of suffering considerably by a sudden attack. The first consideration had been how to remedy the defect, and next what were the best and most economical means of doing it. The opinion of the officers and commanders who had been employed in the different islands was taken; and they had all agreed, that a considerable increase of military force was indispensably necessary to the object in view. After an inquiry how the end could be attained with the least expense to the public, it was resolved to restore the third and fourth battalions of the 60th regiment, or royal Americans, and to increase the regiments on the West India service. The Secretary at War stated, that the increase would amount to 3064 men; and went regularly through the detail of the different estimates. He said that the estimate of guards and garrisons, would, on examination, be found to be reduced in the amount of expense, full 52,000*l.* which arose from the household troops not having been put into it as usual. His Majesty having been pleased to declare, that his household troops were not materially conducive to the security of the kingdom, and as the necessary increase of his army for the preservation of his distant possessions would be the cause of additionally burthening his subjects, he was willing to contribute his share by consenting to sacrifice ornament to service, in such a reduction of his household troops as should be deemed necessary and proper. He mentioned the comparative difference of the estimates of 1787 and 1788, and stated what would be the amount of the expense in case the household troops remained as they were, and what, if a reduction were speedily to

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take place. Another circumstance was, the saving that would result from those officers, who, at the peace establishment had been attached to regiments *en second*, being provided for by the addition of two companies, in consequence of dividing each regiment into ten companies, as before the end of the war, a circumstance extremely advantageous in respect to their discipline. It was inconceivable what injury had been sustained by the service from the effects of the measure of attaching officers *en second*: and unless it had been intended to have crushed the hopes and expectations of military officers entirely, and put an end to the army, he should himself have come down, in case the late events had not suggested the necessity of an augmentation, and proposed the putting a stop to the practice. For five years there had not been a single promotion in the army but by purchase; and how small he observed, must have been the prospect of promotion when any gentleman who wished to serve was to run his own life against three. As to the invalid officers, their expense to the public decreased every day as they were most of them very old men. On this occasion he could, however, declare, that he was far from meaning to throw any slight on the veteran officers. Their age was honourable, and entitled them to every possible respect. He now moved the first resolution, "That it is the opinion of this Committee, that a number of land forces, including 1620 invalids, amounting to 16,982 effective men, commission and non-commissioned officers included, be employed for the year 1788."

Colonel *Fitzpatrick* said, that as the proposed augmentation was in some degree, an implicit censure on the conduct of those who had proposed the peace establishment of the army in 1783, he should make a few observations on the subject then under consideration. Gentlemen were often charged with having forgotten the opinions they had broached on one side of the House, at a subsequent period when they happened to be sitting on the other. He recollected, that when he had the honour to propose the establishment in the year 1783, among other arguments urged, not indeed by his Majesty's present ministers, but by some of their most zealous supporters, it had been said, that the establishment then proposed was too large, considering how much the empire was diminished by the loss of America. Other reasons had also been assigned as a ground of complaint against the extent of the establishment then proposed. He had some sort of right, therefore, to expect that more substantial reasons should be assigned to prove the necessity for an augmentation, than had as yet been opened by the right hon. baronet. It was incumbent on him to have stated to the Committee, that the late administration had left his Majesty's distant possessions in a defenceless state, or that some new cause had arisen that rendered it necessary to add to their security. The right hon. baronet had done neither of these, although five years had elapsed since the establishment was settled, in which time it was natural to expect, that if the establishment had been inadequate to the protection of our island, it must have been discovered. The right hon. baronet had indeed said, that during the late events, the attention of ministers had been drawn towards the West-India islands, and that they had found them subjects of anxiety rather than of comfort; but he had stated no cause of that anxiety, nor any symptoms of danger. The bare assertion that they had been found subjects of anxiety, was surely not a sufficient parliamentary ground for the Committee to proceed to vote an augmentation designed to be a permanent establishment. With regard to the officers and commanders of the different islands, whose opinions were said to have been taken, he well knew that the islands could not be in safer nor in abler hands than many of those officers who were now employed in that service: but he must nevertheless say, that in his judgment, the opinions of those officers and commanders did not afford a satisfactory ground for an increase of the establishment. The circumstance called to his mind, what he had on a former occasion taken the liberty of urging—the necessity of having a commander-in-chief. Such an officer was equally necessary in time of peace or war; and although he knew that it was a prevailing opinion, that during a peace there was no occasion for a commander-in-chief, he thought the single fact of a reference having been thought necessary to a board of general officers to call for their opinion as to the trivial question, whether a battalion had better be formed into ten companies or eight, was a sufficient proof of the correctness of his argument; for, if ministers had felt occasion to call upon a general board to decide that simple question, he presumed, that they

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hardly thought themselves competent to decide upon the still more important question of the manner in which a whole army could be employed to the best advantage. In that case, there was a material responsibility, and there ought to be an officer of elevated rank and acknowledged professional ability to take the responsibility upon him. The late duke of Cumberland, was the commander in chief, and his illustrious rank and high character conduced to keep the army on a most respectable footing. There was, at this time, in England a prince of equal rank, and whose education and talents peculiarly qualified him for the situation. The appointment of that prince to the situation would gratify the expectations of the army, and restore the service to its former state.—Colonel Fitzpatrick now returned to the proposed augmentation. He wished to know how the augmentation would be applied, whether to the West Indies or to America; because in the one case, it was of less consequence; but in the other, the question would become most material indeed, as it might involve in it the establishment of an entire new system of defence of our islands, a defence by a military in preference to a naval force, which might necessarily be intimately connected with the system of fortifications that had been exploded as impolitic. If that were the intended system, ministers ought fully to avow the whole of their design, that the Committee might know what it was that they were called upon to vote. As to the plan of putting the officers *en second* in commission, and no longer suffering them to remain attached to the other companies, he highly approved it. The plan of seconding the officers, the House would recollect, had been an experiment, which the administration that proposed it, had forced the great military character then at the head of the army (general Conway) to try, in consequence of the rigid economy necessary to be adhered to from the reduced state of the finances. The experiment at the time was known to be liable to various professional objections, and had not by any means been adopted by choice.—With regard to his Majesty's gracious intention of giving up a part of those troops which were rather matter of ornament than of service, he doubted not but that every person would be glad to hear of it; but unless more explanation was given of the whole of the plan, it would be impossible to vote for any part of it at present. He did not see how the Committee could vote for an imperfect number of troops, or indeed for any, till the question relative to the household troops was decided, and then the whole number for the service of the year might be voted at once. He was well aware how difficult it was to prevail upon the House to vote against the opinion of the minister, when they were disposed to place an implicit confidence in him; but experience had shown, that they had more than once proved themselves his friends by voting against his measures as well as for them. He mentioned the Westminster scrutiny, and the system of fortifications as cases in point; and said, that those who voted against the fortifications in particular, ought to vote against a motion that tended to establish a system of defence by a military force in preference to a system supported by our marine. He should not object to the present motion, but when the Resolution founded on the plantation estimate came to be moved, he should propose that it might be reduced to the standard of last year.

Mr. *Bankes* presumed he was the person alluded to by the right hon. gentleman, when he said, that some of the most zealous supporters of the minister had, among other arguments, when the peace establishment had been proposed in 1783, stated, that it appeared too large, compared with the reduced state of the empire. He certainly had used that argument, but he had spoken his opinion merely as that of an individual member of parliament. He had not assumed any authority; he knew he was not entitled to it, neither had he delivered his sentiments after having consulted any person upon the subject. He, at the time, thought the establishment enormous, the situation and circumstances of the country considered, and he still retained the same sentiments. With regard to what ought to be the permanent peace establishment, he was a stranger to it, because he had never heard it debated in that House. With respect, however, to the present question, it stood on extremely different grounds. Ministers had declared that they had discovered that his Majesty's distant possessions were not in a state of defence. If it were true, the defence ought undoubtedly to be made adequate. With regard, however, to the fact, he was a stranger, and he would own that his ideas of the needless excess of the

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establishment went rather to the home than the foreign, to the guards and garrisons, than to the plantation estimate. He spoke of the confidence he had in ministers, declaring, that if the right hon. baronet would take upon himself to say the increase was necessary, but that the reasons were improper to be stated to the Committee, he would vote for it; as yet, he owned he had not heard any reasons sufficiently satisfactory to induce him to give his consent.

Mr. *Bastard* professed a confidence in the present minister, whose exertions he admired, as they had been carried on with as much vigour as prudence, as much secrecy as dispatch, and afforded a powerful contrast to the carelessness and indolence, to the profusion and extravagance, of some former administrations, and induced him to say to the right hon. gentleman—"Si qua fata aspera rumpas tu Marcellus eris." In his opinion, however, nothing but dire necessity could justify an increase of the army, and therefore, he wished either to hear some reason stated that should be satisfactory, or that the right hon. gentleman would declare that the desired increase was meant only for the present year as a measure arising out of the exigency of late events, and not as a permanent establishment. He professed his partiality to the marine in preference to the army, and said, that if a greater force was requisite, why not propose to vote 2000 additional seamen, and man more ships? That would be to have recourse to the true constitutional defence of the country.

Colonel *Phipps* entered largely into the defence of the present measures. It was impossible, as it would be imprudent, for this country to enter into the policy of the continent, by keeping up at all times a large establishment of effective forces. It should therefore, he said, be our wish to preserve the establishment, but without the actual force, by which means any requisite number of men, when necessity demanded, might in a short time be made fit for service. If, on the contrary, we reduced our establishment, we should then be under the necessity of sending out new-raised regiments, who were unfit to meet a disciplined enemy, and who, indeed, were first subdued by the climate. Some circumstances in favour of this position he mentioned from the state of the army at St. Lucia and Jamaica last war. With respect to the naval assistance which was so much looked to, he said, that from inaction, contrary winds, &c. the fleet might not come into action at a proper time. It was against this circumstance, it was meant in some degree to provide; and to this he attributed the loss of some of our West-India islands in the late war.

Sir *G. P. Turner* expressed his confidence in ministers, though he said he must watch over them. He urged the employ of marines in preference to other troops, as they were useful men, and acted in the double capacity of sailors and soldiers.

Sir *John Miller* said, that the exertions and the economy of the Board of Admiralty and the Ordnance had the amplest titles to national praise and confidence. The officering the additional companies from the half-pay list, and the declining to increase the number of field officers, was an object of great frugality to the public, of great justice to the reduced officers, and a great additional and prompt stock of military experience to the existing army. It might be asked, why this last measure, so simple and economical, had not been adopted on former occasions? The answer was obvious, because such appointments necessarily curtailed the patronage of Government; the increase and extension of which, until of late days, had been the primary object of every administration. Perhaps the records of history did not supply another example of a nation lost, fallen, degraded, and bankrupt, to the extent that this country had lately been, in her fame, her fortune, and her character, so rapidly exalted by the virtue of a single man.

General *Burgoyne* stated the purposes for which the Military Board had been summoned; which was not, he said, to consider of any fortifications, but on the propriety of dividing battalions of 400 men into companies; and the question was, whether eight or ten companies would be the most proper? The latter had been adopted, and it was undoubtedly the most advantageous mode. With respect to the expediency of the measures before the Committee, though he had approved of the mode of carrying it into execution, he should give it his decided opposition. He also agreed with colonel Fitzpatrick, as to the necessity of having a commander-in-chief to the army, as at present it was not known where to look for responsibility in that department. A commander-in-chief would be considered as the adviser of the Crown in regard to

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the disposal and patronage of the army, for which he would be accountable to that House; it would prevent young officers from commanding old ones; it would prevent the army being in such a situation as described by an hon. friend of his (Mr. Courtenay) some time since, when he said, they were not fit to meet an enemy in the field, and were only formidable to the constitution and liberties of their country. He could not consider the army estimates without at the same time considering the Ordnance, where he found sums for increasing fortifications, at some islands 2,000*l.* at others 3,000*l.* Though such sums were trivial, yet they put him under the necessity of combining the whole to form his vote, which confirmed him in his opposition; it was a change of the system of defence; a change which, he contended, was unwise, and proved by facts, that islands with garrisons that could not be forced, might be taken, instancing Gardaloupe in the year 1759, which was taken by the English troops, though the garrison was too strong for the English troops to attack.

Mr. *Henniker* congratulated the country, that after dangers nearer home had been diverted or subdued, our thoughts were turned to support, and to maintain the distant extremities of the British dominions. He had been one, and he boasted to have been one, of those who gave a vote against the system of fortifications proposed to be established in this country some time ago; and he agreed with a right hon. gentleman that in that he did essential service to the Chancellor of the Exchequer, and stood forward, with many other of his friends, to shield him from the consequence of a measure, that in his opinion must have brought mischief both on himself and the country. But, however warmly he might disapprove of that system, he could see nothing similar to it in the present. A great respect he had for the individuals of both our armaments, naval and military; and yet, considering that the army might be converted to bad purposes, and that the navy could do us benefit without limit, and could not possibly do us injury; he confessed that it was with somewhat of a jealous eye that he beheld the one, whilst he looked up to the other as a potent, firm, and constitutional mode of defence. He wished not this country to be defended by a standing army; it was from the militia, the vital blood of the constitution, that he should look for security in the internal defence of Great Britain. But the objections against a standing army in this country did not apply to remote settlements, where the situation was in islands of a small extent, at a great distance from the mother country, and therefore not so much within the reach of the assistance of the main body of our forces, and where the constitution could receive no check, no injury, no infringement from any inimical exertion. That the minister had reasons to produce, sufficiently cogent to convince any man in that House, he doubted not; and those reasons it would give him great pleasure to have brought forward; but, if they were of such a nature as ought not publicly to be promulgated, and the minister asked a vote of credit for his conduct, he was ready to grant it, and looked for his security on his conduct already past, which had brought the country to an elevation of glory from a depressure of despondency. The manner in which this had been effected would make him wish to put in the mouth of the right hon. gentleman the words of a Roman orator, in a situation not totally dissonant: 'Sine cæde, sine 'sanguine, sine exercitu, sine dimicatione 'me uno togato duce, et imperatore vicissis.'

Alderman *Sawbridge* said, that he did not put that implicit faith in the conduct of ministers which had been so unlimitedly granted by some gentlemen; he thought that the measure then under consideration, was sufficient to caution him against too great a confidence in their schemes; an augmentation of the army in this country might effectuate every design which an unconstitutional minister chose to adopt; the military would prove excellent collectors of taxes; they were capable of adjusting all disputes of a constitutional nature, without the trouble of much investigation; they could crush all opposition to the obnoxious measures of any administration, they could even, as had been in the instance of the interference of the Prussian army, regulate the constitution of a government. All these advantages of a standing army, he was ready to admit; but he trusted, that this country would never have occasion for assistance, so hostile to the spirit of its government; yet if the present augmentation proposed by the minister, was carried into effect, it would give him very serious cause of alarm, as well for the liberty of the subject as the safety of the constitution.

Sir *Joseph Mawbey* rose, at all times,

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he said, with strong prejudices against a standing force; but, if the necessity of the augmentation was justifiable by the circumstances that gave rise to it, he should give it his hearty assent. The French were a people that ought to be cautiously watched by this country; and he firmly believed, from their restless and ambitious character, they would not permit us to remain a long time in a quiet state; but if this country could get the king of Prussia, or any other great potentate on the back of France, he conceived that it would materially affect the balance of power in Europe, and occasion it to preponderate in our favour. The intended reduction of the household troops was a measure which met with his hearty concurrence: although he did not wish to see the prerogative of his Majesty abridged, yet he had ever considered those corps as possessing more of ornament than real utility; and he was therefore happy to learn that a reduction in the expense of their establishment was intended. He alluded to the situation of the army of France, and made a comparative statement of their present numbers with those which were established at a previous period of peace.

Mr. *Martin* said, that it was with pain that he at any time gave his vote contrary to the wishes of the Chancellor of the Exchequer, because he was conscious of his good intentions; but he ever had been an enemy to augmentations of the army. Unless he heard some better reason for the augmentation proposed in the West Indies than had already been given, he should feel himself under the necessity of voting for the Amendment when brought forward.

Mr. *Fox* expressed his astonishment at not discovering some better and more satisfactory reason assigned for the proposed increase of the establishment for the plantations, than the two words mentioned, that ministers had found the West Indies, upon investigating their situation during the late transactions on the continent, to be rather subjects of 'anxiety' than of 'comfort.' These words were fortified only by the opinions of the officers and commanders on the West-India islands, as to the force they severally thought requisite for the defence of the islands they commanded. For a committee of the House of Commons to vote away the money of their constituents, upon such grounds as those, would be one of the most singular instances of blind confidence in a minister that ever had been imagined possible, and could be justified only by an universal confession of that House, that such was their personal regard for the minister, such their implicit, unlimited, and extraordinary confidence, that they were ready to trust him generally with the whole management and execution of the various offices of government, to give up their parliamentary functions, to resign all pretensions to investigation, check, and control, and readily to vote whatever he should be pleased to desire, without hearing a single reason stated for the innovations that he might choose, one after another, to introduce. Instances might occur in which it would prove both wise and necessary to place a full confidence in ministers, and to give them credit for the just application of the confidence so placed in them. For example, the minister had charged 80,000*l.* secret service money expended during the late affair in Holland. That was an occasion of the sort to which he was referring. He had there given the minister his confidence freely and readily. And why? Because the event of the transaction sufficiently proved that a wise use had been made of the money, and that it had been well laid out. So again in other cases of a single and temporary nature. Even now, if the minister had come and proposed an augmentation of the army abroad for a single year, he might have been induced to have given him his confidence, upon his saying, "I have a reason for this augmentation, sufficiently cogent to warrant it, but I cannot explain it to the House at present." That would have been a fit occasion for confidence, and the executive government must have had credit for the validity of the reason, though it was not explained. But when a measure was meant to be permanent, as in the present instance, the House could not, consistently with their duty to their constituents, blindly give the minister credit for the propriety of his suggestion. They were bound to call for the reasons upon which it was grounded, to examine those reasons seriously and accurately, and to reject or approve the proposition, according as it should appear to their judgment to merit rejection or approbation.

With regard to the peace establishment of the army, Mr. Fox said, he had been one of those ministers who proposed it, and when he came down to the House for

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that purpose, his expectation was, that it would have been thought too large, not too small. That expectation had been fulfilled, and it had been argued at the time, that the peace establishment of the army, considering the diminished state of the empire, ought to have been still more reduced. In order to show upon what principles he had settled the plantation peace establishment in 1783, Mr. Fox took a view of the different state of our colonies at the conclusion of the Peace of Aix-la-Chapelle in 1749, and at the conclusion of the Peace of 1762. By some, he said, it had been brought forward as an argument, that with all America in our possession, our peace establishment ought to be larger than without it, and upon that proposition it was that the plantation peace establishment of the year 1763, when the whole of America was in our hands, was greater than that of 1749, when great part of Louisiana, all Canada, and the other provinces of America, were in the hands of the French. At present, we had less of America than at either of those periods; we had lost thirteen entire colonies, and the island of Minorca. His peace establishment for the plantations had therefore taken a medium, and being nearly the same with that of 1749, was not so large as that of 1763.

Upon the comparison, allowing the argument respecting the possession of all America to be well founded, his establishment might be liable to censure for its large extent, and expense; but it surely could not be questioned as too limited and too narrow. Why was it, then, now to be altered? Did the accounts we had of late years received from the United States of America give us any reason for apprehension from that quarter? Surely not. Their situation could not be cause of alarm. To what reason, then, was he to ascribe the present proposed augmentation? Was it solely because ministers saw more cause of anxiety than comfort, when they turned their attention to our distant possessions? Had no other consideration excited their anxiety? For instance, had the state of the navy been regarded by them without anxiety? He had on a former day declared that he joined freely in applauding the late attempts to regain some continental connexions. Why was he an advocate for such connexions? Because, by creating a diversion for France nearer home, we weakened her powers of hostile attack abroad. Because the effect of such a circumstance enabled that House to save the money of their constituents, and to lessen their peace establishment. It was now rather a time to disarm and reduce the army, than a time for its increase. Of whom were we afraid? Of our new friends? If apprehensions on their account, and the necessity for taking the last shilling out of the pockets of their constituents, arose from continental connexions and our late alliances, greatly as he had professed himself the advocate and admirer of such connexions and alliances, he would abjure all such doctrines as heretical and false, and abandon them for ever.

A worthy baronet behind him (sir Joseph Mawbey) had created a smile when he mentioned the increase of the army as necessary to keep pace with the increasing army of France, since we had agreed to disarm our navy and reduce it. He verily believed that this was the true reason of the present proposed augmentation of the military establishment in the plantations; for what else could account for so extraordinary a condition respecting our navy in the Counter-declaration of France? If so, France had reason to triumph in the event of the late transactions, and not we, for France had obtained a rational and a great object. At no time had France been unwilling that we should increase our army. She was wiser, and knew it was the increase of our navy and not our military that she had to dread.

Mr. Fox alluded to lord Chatham's famous expression that "America had been conquered in Germany," which, though bold and figurative, was not, he said, untrue. In like manner the converse of the proposition was founded, and, last war, America had been lost for want of a continental war in Germany. Mr. Fox reasoned upon the policy of economy, and contended that it was by a judicious saving of our resources alone, that we could enable ourselves to meet a war and its difficulties when a war should arise. He reminded the Committee of the speech of Cicero, before the Roman senate, when he had, in one of his orations, in substance said, that "the example of Julius Cæsar was more forcible than any argument which he could urge." France was, in the present case, to us, what Julius Cæsar was to Rome. France had an army of 160,000 men, a powerful marine, and her frontier towns, such as Lisle, and others, were in complete repair. What,

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then, could have induced France to incur the disgrace resulting from her late conduct? Nothing, but her inability to go to war in consequence of the miserably exhausted state of her finances; exhausted by the impolitic extent of her military preparations. Were we, then, so unwise as to follow the steps that had led France to ruin, and to take up a system of expensive preparations that had been abandoned by all Europe? Mr. Fox took notice of what had fallen from his hon. friend (colonel Fitzpatrick) respecting a commander in chief, declaring, that he was more than ever convinced of the necessity of there being a commander in chief of the army, a war minister or ministers who would take upon themselves the responsibility for military measures. In the present case, the Secretary at War who opened the estimate had mentioned the opinion of the officers and commanders in the West Indies, as those who had been consulted as to the quantum of force necessary for each island. Such persons would have been the last authority he should have resorted to, and their opinions those which he should have been the least anxious to obtain; because nothing could be more obvious than that each commander of an island would demand as large a force as he thought equal to his responsibility, and would govern himself in his requisition merely by a regard to his own particular situation; whereas, in judging of a proper peace establishment for the whole possessions of Great Britain, much depended on a general and comprehensive view of all its parts, and their exigencies, relatively compared; a matter to which a commander in chief, or a war minister, could alone be competent.

From the attempt of that day to increase the permanent peace establishment of the army, it was evident that he was the only minister that had ever been chargeable with having refused to take the money out of the pockets of the people when he ought to have done so, or to have established too small a standing army in time of peace. With regard to patronage, also, which had been charged against him as the object of his pursuit when in office, respecting the army at least, he had that day been fully acquitted by the Secretary at War, since the right hon. baronet had explicitly declared, that for the five last years not a single promotion had been made but by purchase, and had stated the want of patronage as a serious inconvenience resulting from the plan of seconding the officers of the reduced regiments. Mr. Fox reminded the Committee, that in the year 1780, a vote had passed, "that the influence of the Crown had increased, was increasing, and ought to be diminished," and that some measures had subsequently been taken for its diminution; but, that the abundance of new commissions which had been since passed, and the number of places since created, amply made up for the diminution; and he contended, that the patronage that would result from the proposed augmentation must necessarily increase it abundantly. He asserted, that it was unfair to reckon upon the whole saving that would be occasioned by the employ of the seconded officers in the new companies, since, though little had, as he believed, as yet arisen from their deaths, more would every day accrue as they died off.

With regard to the Hessian Treaty, he declared himself a friend to it; but the passage of it that appeared to countenance the introduction of Hessian troops into Great Britain required explanation. He recapitulated the effect of the jealousies that had formerly arisen on that head, and mentioned the late lord Chatham's having differed from the minister (Mr Pelham) when he held an office under him, and said, that his great argument in favour of the militia being instituted, rested entirely on the plea that it would prevent the possibility of there ever again arising the smallest necessity for employing Hessian troops within the realm. He acknowledged that he had supported the proposition of last year of not calling out the militia so frequently as had been the practice before, and as was the wish of many gentlemen, who were not only his particular political friends, but in every point of view most respectable characters, and declared that he did it from a consideration, that the economy of the new measure was a greater national advantage than any benefit which could result from continuing to call them out as usual. He mentioned also the late lord Chatham's having always declared himself an advocate for a strong navy and a reduced army, and contrasted the late lord's conduct in both particulars with that of the present minister, declaring that although he himself as well as the right hon. gentleman might handsomely and honourably differ, in some of their political opinions, from those of the persons to whom they owed every endearing

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filial obligation, it was rather extraordinary, that the right hon. gentleman should appear to have countenanced the introduction of foreign troops into Great Britain, in preference to calling out the militia, and to have consented to a stipulation with France to reduce the naval force of the country, and then come forward with a proposition for an augmentation of the army. Mr. Fox said, that the 36,000*l.* expense incurred by the Hessian Treaty must certainly be added to the increase of the army estimates, whereas he had considered it as enabling us to increase our marine, and protect the West-India islands with a naval force. He stated as another objection to the proposed plan, the unhealthy climate of our West-India islands, and declared, that if the augmentation had been applied any where else, he should have better liked it. He mentioned Nova Scotia as a healthy colony, and said, that it would have been a better station for a military force than the West-Indies, and the troops would have been sufficiently near at hand in time of danger. He spoke also of the dispersion and distance of the West-India islands from each other, the uncertainty of sea voyages, and the constant uniformity of trade winds and tides, as other sources of inconvenience, which amounted to a corroboration of the impolicy of having a large land force locked up in the islands.

Mr. Fox next returned to his first reasoning upon what he stated to be of an unparliamentary and unconstitutional tendency, the inclination to put a confidence without bound or limit in the minister, in a case where he contended implicit confidence ought not to be granted. He called, therefore, upon those who were real friends of the minister, to join with him in convincing him of their sincerity, by making their stand there; and though they had concurred with him, and with the public, in giving due praise to the right hon. gentleman for the spirit and happy event of their exertions in the course of the year, convince him that they meant him better, than blindly to follow in supporting all his plans, whether explained satisfactorily and sufficiently, or introduced without a single reason that could tend to impress a conviction of their propriety. The hour of triumph, Mr. Fox added, was that of all others in which it was the most necessary to be cautious, and to guard with more than an ordinary degree of vigilance against being surprised into the sanction of a permanent measure, which could not afterwards be recalled or remedied.

Mr. *Bastard* said, that if the right hon. gentleman had alluded to him, when he talked of the impropriety of gentlemen placing a blind and implicit confidence in the minister, a confidence without bound or limitation, he had utterly misapprehended his meaning. He certainly had a confidence in the minister, in consequence of the late wise exertions; but he had expressly declared, that he nevertheless thought it the duty of every member to watch every separate measure of importance that was brought forward; that he did not approve of augmentations of the army, generally considered; and that he should feel it incumbent on him to vote against the proposed augmentation unless the minister explained the reasons for such an augmentation in a satisfactory manner, or declared that there were reasons which, from their nature, ought not to be publicly explained, that made him desire such an instance of personal confidence.

Mr. *Pitt* said, that the reply of the hon. gentleman who had just spoken in explanation of his own argument, was the most complete answer that could be desired in refutation of what the right hon. gentleman had thought it necessary to employ the greatest share of his reasoning, and the largest portion of his eloquence, to impress on the House. It totally overset the false idea, that on the present occasion, a degree of blind confidence was expected by ministers. This the right hon. gentleman well knew had neither then been desired, nor was it likely that any man should stand up in that House and presume to lay claim to so boundless a concession. The right hon. gentleman had been pleased to say, that the sole reasons assigned in justification of the proposed augmentation was, because ministers, during the late alarming transactions, had been induced to behold the West-India islands rather as the cause of anxiety than of comfort. An evident proof this, that the right hon. gentleman, on the one hand, was ready to charge a declaration of blind and implicit confidence without a reason being assigned to them for their granting it, on those who never made such a declaration, and to charge on others a demand of confidence without their having stated their

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reasons for such a demand when they had expressly declared those reasons; for, gentlemen would recollect that his right hon. friend had not merely said that ministers, on a close examination of the West-India islands and the military establishment there, had not only found them subjects rather of anxiety than of comfort, but had been convinced that the military establishment for the West-India islands, as it had continued since the conclusion of the peace, was inadequate to that purpose. With regard to any claim of unlimited confidence, there were occasions in which ministers, upon a principle of duty, were under the necessity of calling for the sort of confidence in question; but whenever such occasions presented themselves, it was to be regretted sincerely, both for the people who were to grant their confidence in too unlimited and too dangerous a degree, and for those who were obliged to take upon themselves so extensive a responsibility. If, then, it were admitted, that unlimited confidence was absolutely necessary for some particular occasions, it would be found that the same principle which governed single and extraordinary transactions, must in some sort apply even to permanent establishments; and this he took to be precisely the case in the present instance; for what was the ground, and what were the reasons to induce ministers to propose an augmentation of the military establishment, for the better security of our distant possessions, but an express declaration, that upon a more accurate examination of the state of our West-India islands, which the late situation of affairs, and the consequences that were likely to have followed made it their duty to go into, they had found that the military establishment for the plantations, as settled in 1783, was not adequate to the purpose of guarding the West-India islands against sudden surprise, or putting them into such a state of defence as should show those who might otherwise be tempted to commence a war with us, that no part of our possessions were left in a vulnerable state? But, though so much was declared, it would be highly improper to go farther into a detail in that House, and to state more minutely the reasons on which such an opinion was formed, any more than it would be wise to point out and proclaim in what particulars the islands were deemed vulnerable, unless strengthened by the increase of the establishment now proposed. To make the islands sufficiently safe, to set all prospect of capture at defiance, was perhaps impossible; but so far to defend them as to guard against a sudden surprise was practicable, and therefore, undoubtedly the duty of ministers to provide for. With this view it was that the augmentation now asked was desired; and surely the King's servants did not require too much of the confidence of the House, when, having assigned explicitly the reasons for it, they desired the military establishment for the West Indies to be increased in the proportion stated in the estimate; nor was it, as it had been suggested, from any absurd idea of preferring a land to a naval force, or neglecting our marine; it was directly the reverse, since, in fact, the use of our navy would be infinitely diminished, and the effects of our naval operations considerably crippled and embarrassed unless the measure proposed was adopted. At the same time he begged gentlemen not to be run away with by general declamation, and arguments without application, but to look a little more closely to the nature of the right hon. gentleman's reasoning, and examine whether it applied or not to the case under consideration, before they suffered their attention to be drawn aside, and their understanding misled, so as to lose sight of the true question, which he was as ready as any man to admit was a question of very considerable importance, and as anxious to have it fully and fairly considered.

From what the committee had heard it would be concluded that he had called upon them to adopt a new system, for the protection of the West-India islands: whereas it was no new system; it was not his system: it was the system of the present and all preceding administrations: for the principle had been, and was, the same let it be carried to what extent it might, so long as the practice had prevailed, and should prevail, of voting any estimate of the army for the plantations. The right hon. gentleman had, in settling what he had considered to be the adequate military establishment for the West Indies in 1783, recognized and adopted the system. Preceding administrations had done the same, and all that was now meant was to pursue the same system as to its principle, but with that degree of additional force as should carry the principle into effect, and make it answer the true end for which it had originally been adopted. Gentlemen had, in the course of the debate urged the

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propriety of protecting our West India islands with a naval in preference to a military force; and an hon. gentleman had expressed a wish, that instead of the augmentation now proposed, an additional 1,000 seamen had been voted. That this was a proposition adapted to the prejudices, the laudable prejudices, of that House, he was ready to admit; but upon closer examination, it would probably be found to be more a popular suggestion, than practicable to any purpose. The West India islands would be allowed to be important objects to this country, and therefore, their security became a matter of the first consideration. There were but three ways of endeavouring to secure them; either by having a large stationary fleet in the West Indies, by sending out succours, naval and military, on the prospect of a rupture, or by keeping a military force upon the islands equal to their defence against sudden surprise. Experience had proved that a naval force alone could not protect them, since, with a large fleet in the West Indies, last war, sometimes superior to that of the enemy, the French had wrested Tobago and several of the islands from us. With regard to the expedient of sending succours from home on the prospect of a rupture, to say nothing of a commencement of hostilities without a previous declaration of war, we might not always have a marine superior to that of the enemy, and thence it might be inconvenient or unsafe to detach any part of our navy; and again, if it were able, our succours might not, from a variety of causes, arrive in the West Indies time enough to answer the purpose of preventing an attack. With regard to the proposition of voting an additional 1,000 seamen, he believed that no naval authority would undertake to say that such increase would insure the protection of our islands. A right hon. gentleman had spoken of the dispersion and distance of the islands, and the uncertainty of winds and tides, which struck him at the time as arguments that directly applied in favour of the augmentation proposed, and not against it, because the difficulties that were likely to occur, were surely reasons to show the policy of keeping a military force in each for its own protection against sudden surprise.

With regard to the late transactions in Europe, which had been universally approved, and of the happy issue of which he was proud, but not from any personal consideration, he thought it a little extraordinary that they should be stated as reasons why ministers should not come forward with any proposition like the present. The right hon. gentleman had thought proper to bring Cicero's allusion to Julius Cæsar into his argument, and to compare what had happened in France to it. He asked, if we had not the example of France before our eyes? She was in possession of a great army, a powerful marine, fortified towns on her frontiers, and immense preparations, which had so completely exhausted her finances, that she found herself unable to engage in a war. With regard to the finances of France, the right hon. gentleman appeared to have a more accurate knowledge of them than of any other of the subjects to which he had alluded. Her finances were undoubtedly in a deplorable condition: and compared, indeed, with the state of her finances, her army and her navy might be called powerful, but in no other view whatever. Be that however as it might, was the right hon. gentleman's picture of France a reason for us to be less circumspect than our duty, as a rival state demanded? Because, by a happy combination of events, we had gained an advantage were we to be lulled asleep, to stop on a sudden, and blind to our interests, to dream only of security, instead of endeavouring to realize it? Was it not, on the contrary, wiser to insure our safety by applying additional strength to such parts of the British dominions as were found to be weak and vulnerable? That was true economy, and the only proper economy, which this country ought to hold in mind; and upon that principle it was (the present state of the finances of the country considered) that it appeared to him to be well worth while to lay out the 80,000*l.* which the proposed increase would cost. That would be to act with prudence and circumspection. To put our possessions into a state of security, and thereby show ourselves prepared to meet the doubtful issues of war, would best secure the continuance of peace and render the enjoyment of its blessings lasting and permanent. A long peace must necessarily be the most important object Great Britain could attain, and therefore to refuse to spare a small sum with a view to insure the continuance of peace, was to carry economy to a blameable excess, and to be guilty of a degree of parsimony highly injurious to the national character and the national interests.

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He was a little surprised at hearing the right hon. gentleman declare, that the commanders on the different islands were the last persons whose opinions he should wish to know in forming a general and comprehensive plan for the defence of our foreign possessions, because each commander would singly consider his own situation, and ask that degree of force for the defence of the particular island under his command, that was consistent with his ideas of his own responsibility. It was undoubtedly true, that each officer who commanded an island would square his requisition by what he knew of his own situation; but surely it was rather expecting more than even the right hon. gentleman's own intuitive abilities were equal to, that government should be able to form a general comprehensive permanent peace establishment for the protection of our distant possessions by mere instinct, without any previous inquiry of those who had been on the spot, and in command there, what their knowledge and experience induced them to consider as an adequate force. Government, who were to form the general plan for the safety of the whole, had taken the proper means of ascertaining the particular character of each part, and its vulnerable or invulnerable concomitants; and then, from a due regard of the relative circumstances of each, governed by a proper attention to economy, and a reference to a variety of other important considerations, had formed such a plan as was in their judgment consistent with every one of them: and he took that to be the only rational way by which a proper establishment, in every view of it, could be determined. As to the mention made of the fortification system, he well knew the reason for which it had been introduced; but though it had been imagined that the word 'fortification' would not fail to have its effect, he was sure the good sense of the House would not suffer general declamation to prevail against real argument; nor should the word itself, nor the insinuation, that the increase of the military establishment in the West Indies was to lead to the introduction of an expensive system of fortification on those islands, deter him from fairly and openly avowing, that fortifying the West India islands upon a moderate plan, and with a view to render a small military force an efficient defence, was intended, and was so connected with the plan of our augmented military establishment in the West Indies, that it might be considered as a part of it, and indispensable to its being adequate to its object. For fortifying the West India islands, they had not only the opinion of a Board of English General Officers, but that of the most eminent French engineers, since every one of the French West India islands was fortified; and so convinced were the French of the propriety of securing their islands by fortifications, that they began fortifying those islands they took from us last war, as soon as they were in their hands; and when by the treaty of peace they were restored to us, the works they had begun remained upon them.

Mr *Fox* answered, that what had fallen from the right hon. gentleman confirmed him more than ever in his opinion, that it was utterly impossible for the Committee to vote the augmentation proposed without farther and more satisfactory explanation. The right hon. gentleman had told them in a fair and candid way, that a system of fortification was intended to be adopted in the West Indies. How then was it possible for them to vote at all in the present case, without their being previously made acquainted with the extent to which that system was proposed to be carried, and the amount of the expense it would cost the public? When he said this, he did not mean the mere sum to be voted on account annually, but the total amount at which the completion of the proposed new system was estimated. The right hon. gentleman's argument afforded a strong additional reason for there being in that House a commander-in-chief to explain to them, that such a system of insular defence as that proposed was necessary.

Mr. *Pitt* replied, that it was impossible for him to say what the whole of the intended fortifications would cost; but that an increased military establishment would be altogether useless, unless some fortifications were erected to render a small military force an efficient defence of the islands. He believed the intended plan would cost to 180,000*l*. or 200,000*l*.

Mr. *Drake* complimented the minister on the late exertions of Government, and said, that notwithstanding the jealousy which it was natural and proper for gentlemen to entertain of the military, he believed the gentlemen of the army were all good men, ready to come forward *pari passu* in the hour of danger with the rest of the subjects, and as well inclined to the constitution as the best of them.

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Sir *George Howard* approved of the idea of augmenting the military establishment in the West Indies, and fortifying those islands. He said that we had the authority of the French for the utility of the practice, and particularly instanced the Marquis de Bouille, who had commanded with such ability in the West-Indies, and who, when he was in England, after remarking upon the absurdity of our not adopting the practice, said, that the French had a proverb in use grounded on our not fortifying, which was, *pied à terre, l'isle pris.*

Sir *James Johnstone* said, that the fortifications necessary for the West-India islands would not cost the public any thing, for that the residents would pay the expense themselves. He instanced the island of Grenada, where 30,000*l.* had been already expended, and said that the inhabitants of all the other islands knew it was their interest to fortify, and would gladly pay for it.

The question was then put upon the first resolution, which was carried without a division; but, on the resolution for granting 12,000 instead of 9000 men for the plantation service, the Committee divided: Yeas, 242; Noes, 80.

Queenborough Petition respecting Abuses in Elections for that Borough.] December 10. Alderman Sawbridge presented a petition from the electors of Queenborough, setting forth, that for thirty years past, works by the Board of Ordnance had been carried on there without any kind of advantage to the public, but for the sole purpose of creating an unconstitutional influence in the borough at elections for members to serve in Parliament. The Speaker having expressed some doubts as to the propriety of the petition, seeing that it appeared to be rather in the nature of a complaint, the question that it be brought up was negatived, on a division, by 95 to 32.

Dec. 12. Alderman *Sawbridge* rose and observed, that he had a petition to present on a similar subject to that one which he had offered on Monday, but which the House had, without assigning any reason, refused to receive. The present petition alleged that the Board of Ordnance carried on a branch of the service of their department at Queenborough, at a much greater expense than was necessary, merely for the purpose of corruptly influencing the electors of that borough, and by that means procuring the return in favour of a person belonging to the Ordnance, a circumstance equally improvident in respect to a lavish and unnecessary expenditure of the public money, and unconstitutional, as tending to the destruction of the independence of the borough, and after stating that this practice had obtained for thirty years, the petitioners (who are four freemen of Queenborough) pray the House to institute an inquiry into the facts alleged, and provide such redress as the wisdom of the House may deem proper; engaging on their parts to prove their allegations at the bar of the House. Having heard it whispered, that he had some interest of his own to serve by getting the redress for which he prayed, he must beg leave to assure the House, that there was not the smallest grounds for such an insinuation. He had, indeed a house near Qeenborough, but he never was in the town in his life, nor did he know more than two of the electors, one the gentleman who put the present petition into his hands, the other, a man of substance who lived close to Queenborough, but who had employment in the Customs. The Alderman moved for leave to bring up the petition.

Mr. *Dundas* said, that if the petition had concerned the patrimonial rights of the petitioners, he should have had no objection to its being received; but he contended, that it was in direct contradiction to the established rules of the House to receive from private individuals petitions on public questions which regarded the rights and privileges of parliament. It was no doubt competent to any member to bring forward any discussion of that nature; but it was surely against every precedent to receive the petition in its present shape; because it referred to no particular election, but merely stated in general, that abuses had prevailed in influencing the electors of Queenborough. If the House were to listen to such vague assertions, there would be no end to petitions of that nature. He had not the least objection to the discussion of the subject; but he wished it should originate from some member of the House, and not in consequence of the petition of a few individuals.

Mr. *Marsham* desired that that part of the Bill of Rights which defined the right of petitioning might be read. The clerk read that clause of it which declared that the subject had a right to petition the crown.

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Mr. Marsham then observed, that he had every reason to believe that a very improper influence had long prevailed in the borough, by a profuse expenditure of the public money through the medium of the Board of Ordnance, to the great injury of some of his constituents. The right hon. gentleman had argued, that the complaint ought to have been made by a member of that House, and that it was contrary to form to admit it in the shape of a private petition. He certainly differed from him in this point, and for a very good reason —many abuses of a public nature might subsist without the knowledge of a member of parliament; abuses which he might not be able to substantiate, by proving the facts which the petitioners now offered to do. The abuses mentioned in the petition he was convinced did exist, but he himself could not prove that they actually did. He thought the subject demanded a parliamentary investigation, and if the petition was rejected, he himself would, after the recess, again call the attention of the House to the subject.

Mr. *Fox* thought it incumbent on the right hon. gentleman rather to state a precedent against the receiving the petition, than to call for precedents in support of the practice; not but as there were many had precedents on the books, possibly one might be found in favour of his argument. There could not, however, be a worse precedent made, than that of refusing to receive the present petition, which was not a petition conveying a general charge, but a petition from private electors, complaining that their rights, as electors, were injured, and the independence of the borough, for a representative of which they were legally entitled to vote, destroyed, in consequence of the corrupt influence of the Board of Ordnance. He must and would contend, that it was such a petition as the House ought to receive, being, to all intents and purposes, a petition complaining of a specific grievance. With regard to the argument of the right hon. gentleman, what did it amount to? If that House could only act upon petitions, alleging one particular grievance, and that, perhaps, of an insignificant nature, affecting one or two parties only, and not upon petitions stating great and broad grievances affecting many, what was it but a declaration that the House could apply redress in cases of small grievances only, and not in those where the grievance was crying and enormous? Would any man who valued the privileges of that House, maintain so depreciating an argument? For his part, he did not admire the manner in which the petition had been treated from its first mention. No man could question the subject's right to present petitions to their representatives; because it was idle to suppose, that when a stipulation had been made by the Bill of Rights, that the subjects should, in all cases, have a right to petition the Crown, they had not an equal right to petition the House of Commons, their own immediate representatives. He knew but of three objections to the receiving petitions; one, when the petition stated a case in which that House, from the nature of the thing, had it not in its power to apply any redress; another, when the subject was of so insignificant and trivial a nature, that it did not merit any attention; and a third, where the petition was drawn up in disrespectful and insulting terms. Within neither of these descriptions would it be contended that the present petition came: it stated a great and a serious grievance; it prayed a redress which the House had in its power to grant, and which it was peculiarly their province to inquire into; and lastly, it was drawn up in terms perfectly decent and perfectly respectful. Mr. Fox said, he lamented, that the House should ever refuse to receive a petition, without a single reason having been assigned for rejecting it. They had unfortunately done so in the present case on Monday last. What was the inference? When a petition was presented to the House of Commons, alleging a grievance affecting the freedom and independence of an election, the House refused to receive the petition. Was that a character the House ought to draw upon itself? Undoubtedly it was not; nor would the House, he was sure, easily endure it. With regard to the argument that the subject matter of the petition might as well be urged by a member in his place, so might the subject matter of any one petition that ever had been presented. But could it be stated with equal convenience and equal effect? Most certainly it could not. In the present case, the petitioners undertook, at the risk of the censure of the House, to make good the allegations of the petition at the bar. Was it equally in the power of a member to substantiate facts with which he was not at all acquainted? Let that House remember if the doctrine of

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abolishing the receiving private petitions were to obtain, it would be telling the people of England in plain terms, "we will not listen to your grievances, we will only listen to the grievances of our own members."

Mr. *Dundas* said, that as it appeared the Bill of Rights gave no authority for receiving the petition, he hoped the right hon. gentlemen, who was more conversant in parliamentary forms than he was, would give some instance of a precedent where a similar petition had been received; but, for his part, he knew of none. He remembered it had even been disputed whether the petition against the shop-tax could be received, as it did not affect the patrimonial rights of the petitioners. It was absurd to say, that if the petitioners failed in their proof of the allegations stated in the petition, they would incur the censure of the House—they surely could not be censured for failing to prove what they believed to be true. For his own part, he had no wish to avoid a discussion of the abuses complained of, if the mode in which they came before the House was founded on the usual practice of Parliament; and for that information he begged leave to appeal to the Chair.

The *Speaker* said, that undoubtedly so far as the forms of the House went, it was perfectly competent to receive the petition in the first instance, if the House were of opinion that the subject matter of it was such as demanded a parliamentary discussion. Such instances occurred every day; and he apprehended no other motion was intended at present on the petition now under consideration, but simply that it should lie on the table.

Mr. *Pitt* acknowledged that the subjects had a right to present petitions to the House; but, at the same time, contended, that the whole of the present case rested on discretion. Because it surely would not be insisted upon, that although the subjects had a right to present petitions, the House had not an equal right to exercise their discretion, and say whether they would receive them or not. They had often exercised that discretionary right, and the grounds of discretion were threefold, as the right hon. gentleman had stated them to be. Undoubtedly, neither of these objections applied to the present petition, and he saw no great difficulty in receiving it; but it would have been desirable, if the grievance really existed to the extent alleged, that an endeavour should have been made to obtain a remedy at an earlier period, and it was rather to be wondered at, that the fittest opportunity of provoking an inquiry, had not been seized, and this at some one of the various elections which had taken place during the time that the petition stated the grievance to have existed.

The petition was brought up and read, setting forth,

"That the Petitioners esteem it their duty to represent to the House, that great and notorious abuses prevail respecting the shipping employed in the rivers Thames and Medway under the management and direction of the Board of Ordnance; that useless vessels, the property of Government, are retained on the establishment, although the contract vessels employed in those rivers are fully adequate to the service of the public in time of peace, and that the contract vessels are hired at much less expense than is incurred by those on the establishment, all the masters and mates of which are freemen of the borough of Queenborough; that for the last thirty years, the borough of Queenborough has been constantly represented in Parliament by a member of the Board of Ordnance, and during that period, the expenses of the establishment have been enormously increased, by the addition of new vessels, the augmentation of the salaries of the masters, and the unnecessary and unprecedented appointment of mates; and that by these means, the public money is wantonly and wastefully expended, and the Board of Ordnance have acquired, and still keep up and maintain an undue and corrupt influence in the election of members to serve in Parliament for the borough of Queenborough, to the prejudice of the rights of the Petitioners and others, freemen of the said borough, and in violation of the freedom and purity of elections; and that the Petitioners are desirous and prepared to substantiate the truth of their allegations at the bar of the House, or before any committee of the same, and most earnestly request the House to institute such inquiries, and to take such measures, for the correction of the abuses complained of, as to the House shall seem meet."

Ordered to lie on the table.

Proceedings upon the Impeachment of Mr. Hastings.] Dec. 5. In consequence of the order of the House of Lords with which Mr. Hastings was served towards

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the close of the last session, to put in his Answer to the Charges exhibited against him by the Commons on the first Tuesday after the next meeting of Parliament, on the prescribed day he appeared at the bar, and presented answers. Of these the Lords sent a copy to the House of Commons this day. The said Answer* being read short, *pro formâ*, Mr. Burke moved, "That it be referred to a Committee, and that they do consider thereof, and report their opinion what is most proper to be done towards the further proceedings therein;" which having been agreed to, the Speaker desired him to name his Committee. Mr. Pitt named Mr. Burke, as the first member, which being agreed to, Mr. Burke next proposed Philip Francis, esq.

Upon the question being put, the House divided:

Tellers.

Yeas	Mr. Grey Lord Maitland	23
Noes	The Earl of Mornington Lord Hood	97

So it passed in the negative.

Mr. *Burke* now rose and declared, that of such material assistance had they deprived him, in rejecting Mr. Francis, that he scarcely knew how to proceed, and felt the cause to be in some degree damned by the recent act of the House. He reminded gentlemen of the seriousness and solemnity of the whole proceeding, a proceeding which, after deep and frequent deliberation, had been brought, step by step, to its present advanced stage, and ought to be continued during the remaining part of its progress with equal steadiness and uniformity. He admonished the House, that their conduct in this very important and grave transaction was a matter most highly interesting to the national character, and that, consequently, they were amenable for every one of their proceedings respecting it, at the high and awful tribunal of the public and the world at large. He pressed them to consider the dangerous effect of their appearing in the smallest degree to prevaricate or waver in the course of the prosecution, and urged the manifest injury and injustice of changing their committee, and rejecting any one of the members of the former committee without a reason previously assigned. A bad motive in their conduct, in their rejection, he said, he neither supposed to exist, nor would he charge the House with having harboured, or being influenced by it in their late vote, but the only presumeable reasons for rejecting any one member of the former committee could be no other than two, either a general disqualification on general grounds, or a personal disqualification from inability or unfitness to assist in conducting the prosecution. Both these questions had been already decided, and the House would have acted wickedly and weakly in suffering his hon. friend to take so great a part in the proceeding hitherto, and to have adopted his ideas, if they had judged him to be disqualified to take a share in the business. The fact was, his honourable friend was most eminently qualified to assist in the prosecution; for through his superior knowledge of it had all the charge relative to the revenues been made out and established, and so greatly had he himself been aided and assisted by the information which he had received from his hon. friend, that he, in his honour and conscience declared, he felt himself disqualified from conducting the remainder of the prosecution safely and securely without him, and he meant and desired the Declaration to be considered as given with all the solemnity of an oath, though a man need not be put upon his oath when confessing his own disqualification. It was for this reason, essential to himself, and essential to the House and their joint credit, he wished his hon. instructor and associate—for so he might justly term him—to have been continued a member of the committee. Why the House had by their recent vote thought proper to reject the future assistance of his hon. friend, he was utterly at a loss to guess. That those members who had uniformly expressed a disinclination to the prosecution, and in almost every stage of it endeavoured to put a stop to it, should have made a part of the majority on the late division was natural enough, because nothing could be more consistent than for those who had declared themselves adverse to any prosecution, to endeavour to take away the means of pursuing it, when once a prosecution was instituted; but for many of the gentlemen of another description, who had cordially co-operated and assisted in the investigation, previous to the matter having assumed the regular shape and form of a criminal process, to concur in a vote

* See Commons Journals, Vol. 43, p. 32.

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which embarrassed and weakened the cause and endangered its ultimate event, was to him a circumstance altogether unaccountable. The Committee then naming, was not the Committee of managers, and therefore not of equal importance; but so fully was he convinced of the great utility and importance of the assistance of his hon. friend, and that he should feel himself, who knew the subject as well as most men, so exceedingly crippled and enfeebled without the advantage of his hon. friend's superior information, that when the day for naming the next committee should come, he would again appeal to the sense of the House, and try to have his hon. friend reinstated.

Mr. *Rolle* rose to reply; but the Speaker called to order, and stated, that after the House had concluded a question, by a division, it was out of all rule of order to enter into a debate upon the principles of their decision. And more especially at present, when the right hon. member had himself said, that there would be a future opportunity of taking the sense of the House on the point in dispute.

Mr. *Burke* replied that, he would content himself with the preliminary protestation that he had made against the effect of the late vote, and after just touching upon some of the grounds of the protestation, as stated in his former speech, he proceeded to nominate the other gentlemen of the Committee, who were the same as were appointed last year, with the omission of the name of Mr. Francis, and the addition of those of Mr. Wilbraham, Mr. Fitzpatrick, and Mr. Courtenay.

Mr. *Fox* expressed his wish to appeal seriously to the gentlemen on the other side upon one particular resulting from their late vote, by which they had thrown so violent a discountenance on the prosecution; and that was, the necessity of filling the chasm in the Committee, which they had occasioned by rejecting the only member, who, from every consideration, appeared to be the most proper to be upon it. He therefore submitted it to the consideration of the other side of the House, whether it would not be right and becoming in them to supply the vacancy, by naming from among themselves some person of acknowledged information upon the subject. He suggested the right hon. gentleman at the head of the India board (Mr. Dundas); but said, that he would agree to the nomination of any other well-informed gentleman, whom the other side of the House might consider as a proper person for their acceptance.

Mr. Burke then moved, that the Committee be armed with the usual powers; which was agreed to.

Dec. 7. Mr. Burke reported the Replication of the Commons to Mr. Hastings's Answer, as follows:

"The Commons have considered the Answer of Warren Hastings, esq., to the Articles of Impeachment exhibited against him by the knights, citizens, and burgesses, in Parliament assembled, in the names of themselves, and of all the Commons of Great Britain; and observe, That the said Warren Hastings hath endeavoured to cover the crimes laid to his charge by evasive insinuations and misrepresentation of facts. That the said Answer does give a gloss and colouring utterly false and untrue to the various criminal matters contained in the said Articles. That the said Warren Hastings did in fact commit the numerous acts of extortion, bribery, peculation, cruelty, breach of faith, violation of the orders of the lawful authority to which he was subject, and of the various other offences and crimes of which he stands accused. And the Commons, in full confidence of the truth and justice of their accusation, and of the necessity of bringing the said Warren Hastings to a speedy and exemplary punishment, and not doubting that your lordships will use all becoming diligence to do justice to the proceedings of the Commons, and to vindicate the honour of the nation, do aver their Charge against the said Warren Hastings for high crimes and misdemeanors to be true, and that the said Warren Hastings is guilty in such manner as he stands impeached. And that the Commons will be ready to prove their Charges against him at such convenient time and place as shall be appointed for that purpose."

The said Replication was agreed to, and Mr. Burke was ordered to carry it up to the Lords.

Dec. 10. The Lords acquainted the Commons that they had appointed the 13th of February next, for the Trial of Warren Hastings, esq., at the bar of the House of Lords; and that they would order conveniences to be prepared there, for the managers of the said Impeachment.

Dec. 11. The above Message from the

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Lords being read, Mr. Burke moved, 1. "That managers be appointed to make good the Articles of Impeachment against Warren Hastings, esq., and that the Committee to whom it was referred to consider the Answer of Warren Hastings be the said managers. 2. That Messrs. Wallis and Troward be the solicitors to the said managers. 3. That this House will be present at the trial of Warren Hastings as a Committee of the whole House. 4. And that a message be sent to the Lords, requesting that they would provide suitable accommodations for the members of this House." Which motions, being severally put, were agreed to.

Debate on Mr. Fox's Motion for adding Mr. Francis to the Managers of the Impeachment against Mr. Hastings.] Mr. *Fox* now rose, and begged leave to trespass upon the attention of the House, whilst he adverted to his design of proposing, as a member of the Committee for managing the Impeachment at the bar of the House of Lords, an hon. friend of his whom the House had approved as a member of the Committee to whom the drawing up of the Articles of Impeachment had been intrusted, but whose nomination as a member of the Committee appointed to consider of the answer to these articles had been opposed. There must, indeed, be strong arguments adduced to prove the fitness of the hon. gentleman to sit as a member of the one Committee, and his unfitness to sit as a member of the other. They were not now acting as the judges of Mr. Hastings; they were not even sitting in the character of a grand jury to decide whether or not a bill of indictment was to be found against him; they were become his prosecutors; in that capacity they had committed themselves, and would act with the utmost inconsistency if they failed to avail themselves of every circumstance and of every assistance that might give effect to their prosecution.

Whatever objections might be urged to Mr. Francis as the judge of Mr. Hastings, though for his own part he neither felt nor admitted their existence, there could be no possible objection to his appearing as his accuser. To the character of an accuser, innocence and integrity were indispensably necessary. It was requisite that he who preferred an accusation against another should himself be blameless, and his reputation unsuspected. That his hon. friend possessed this reputation was well known to all who heard him. All knew that he had been sent out to India as one of the supreme council on account of this reputation, and returned with the approbation and the confidence of his employers. But in such a case the testimony of his friends would be incomplete, unless corroborated and confirmed by the testimony of his enemies. This testimony his hon. friend had also obtained. By a steady and consistent hostility to the malversations and corruptions of others, he had provoked the most rigid scrutiny into his own conduct while in India, and since his return he had courted, not shunned, inquiry. Had any discoveries of misconduct on his part been to be made, they would long since have been before the public, since they must have come within the knowledge of those who were well disposed to bring them to light. It was, therefore, fair to conclude that his character was unimpeachable, since it had not been impeached, and that he possessed that innocence and integrity of life and conduct which qualified him to come forward as the accuser of another.

It was fit also that an accuser should possess talents. What the natural abilities of his hon. friend were, it was needless to state where they were so well known. What his acquired abilities on the subject of the prosecution were, must be equally evident from the opportunities he had enjoyed. It was much to have been in India; it was much to have been acquainted with the evasions and tergiversations under which Mr. Hastings had been accustomed to screen his conduct. When Cicero came forward as the accuser of Verres, what were the arguments he advanced why the prosecution should be committed to him? "Because," said he, "I am acquainted with the evasions and sophistry of his advocate Hortentius. I am accustomed to combat and overthrow them."

Nor was it less requisite that an accuser should entertain no partiality in favour of the accused; and not only that he should entertain no partiality, but that he should not be indifferent as to the event of the prosecution: that he should be animated with an honest indignation against the crimes and the criminal whom he attempted to bring to justice. In the case of a prosecution for murder, where the son of the person said to have been murdered was the prosecutor, he made his charge and produced his proofs with such seeming coolness and indifference, that the judges

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stopped him by asking: "Were the facts you allege true? Was this man really the murderer of your father? If you indeed believed him such, you could not possibly go on in this unaffected and impartial manner. While, therefore, you address us in this trim language, we can give no credit to what you say." Even like this might be the answer of the party accused; and such had actually been the answer of Mr. Hastings to the remonstrance of the court of directors: "If you actually disapprove of my conduct, you could not possibly address me in such gentle terms." If Mr. Francis was supposed to cherish enmity to Mr. Hastings, it was not enmity to his person, it was enmity to his crimes. He was, therefore, from his detestation of those crimes, and his ability to prove them, a proper person to become the accuser of Mr. Hastings. There was no such thing known as an impartial prosecution in this country, for although all prosecutions were commenced in the king's name it was always the party injured that came forward in support of them.

As to the merits of his hon. friend in other points, it was enough to say, that if India was to be better governed; if the abuses and corruptions that had prevailed in that country were to be corrected; if the hon. gentleman at the head of the board of control was able to introduce a purer and a better system, he must own that his knowledge had flowed originally from Mr. Francis. Under these circumstances, if his hon. friend was not appointed a member of the Committee, the House must prevaricate, and depart from a charge which they had already adopted. He had with infinite application and ability brought forward the charge of abuses in the administration of the revenues.

The sole argument which he had ever heard against the appointment of his hon. friend was, that he had once had a personal quarrel with Mr. Hastings. Of what weight was this? He was not to be the judge, but the accuser of Mr. Hastings; and not the only accuser, but an accuser, joined with others. Was he supposed of such authority as to influence the judges? Were the whole Committee of such authority? The Lords would sit to pass sentence, upon their honour, like a jury on their oath, and Heaven forbid that the united authority of the Commons of England should influence their decision! Were this argument to be allowed of any force, what a lesson would it teach to all our governors abroad, who might dread inquiry into their conduct? It would be saying this to them, "You know the persons who have the means of discovering your mal-administration, and you have only to provoke a private quarrel with them, and they can never afterwards be suffered to bring a charge against you; and if they cannot be admitted as your accusers, much less can they appear as evidence against you." The truest criterion for judging on the subject was the circumstance that the prosecution was to be arranged like other prosecutions, and that the House, having once adopted it as their own, were to employ the best means of supporting it. His hon. friend was more conversant in the affairs of India than any member of that House, and not to avail themselves of his knowledge and ability, would be a dereliction of their own cause. If they demanded impartial accusers, who were acquainted with the subject of the accusation, where were they to be found? Not in India, for it afforded not a man who could be said to be impartial in this cause. And by whom was Mr. Hastings to be accused—by those who had supported his measures, or those who had opposed them? by his friends, or his enemies? There were not many accusers from India. He knew but few from that quarter who could dare to assume the character, or whose own conduct would stand the test of inquiry. To exclude from the Committee the person likely to be the most dangerous accuser, would have a very pernicious appearance. Next to the power of choosing, was the power of rejecting accusers; and such favour shown to him who had abused the authority intrusted to him, and such discountenance to him who had faithfully done his duty would have the effect of making the criminals conclude themselves in safety, and operate as an unjust and barbarous restraint upon the innocent. Mr. Fox now moved, "That Philip Francis, esq., be added to the managers appointed to manage the impeachment against Warren Hastings, esq."

Mr. *Caswell* observed, that he had voted against Mr. Francis being upon the Committee the first time it came to the question, and was left in a minority. He had likewise voted against him a second time on the preceding Wednesday, and when he came into the House, it had been said, how dared any gentleman offer such an insult to another member of that House?

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Such a gross remark on his vote he by no means understood, and he had at the time, in consequence, stated the reason why he gave such a vote, namely, because Mr. Francis had fought a duel with Mr. Hastings, and had consequently had a personal quarrel with him. For that same reason he should vote against Mr. Francis.

Mr. *Adams* said, he had voted against Mr. Francis being a member of the Committee, because he had heard there had been a personal quarrel between Mr. Francis and Mr. Hastings. He doubted not but that Mr. Francis had long since entirely wiped away from his mind all emotions of malice or resentment against Mr. Hastings; but he nevertheless was of opinion that it was not becoming the honour and dignity of their proceedings to appoint for one of its managers of a cause of such serious importance, a member who had, in the course of his life, had a personal quarrel with Mr. Hastings.

Mr. *Windham* said, that having heard no argument against the appointment of his hon. friend, it was difficult to reason upon its propriety; not knowing the objections, he could not possibly undertake to obviate them, but was like a man beating in the air; for he had no arguments to combat. As gentlemen had been so sparing of their reasons, he would endeavour to state every possible ground on which an objection could be made, in order to prove to the House how impossible it was for them, if they were sincere in the prosecution, to refuse to give their managers the benefit of the abilities, the zeal, and the diligence of his hon. friend. There could not be offered any objection of a personal nature against Mr. Francis, for his integrity was eminently conspicuous. Those, therefore, who had objections to make, must support them, by proving, first, that private animosity was a proper disqualification; and secondly, what he believed was nearly as difficult to be proved, that Mr. Francis entertained that sentiment of personal animosity towards Mr. Hastings. The idea of supposing that an accuser ought to be free from resentment, was, he conceived, on the principle that he ought to be impartial. This, he contended, was perfectly absurd, and could only be maintained by perverting and confounding the functions of a court of judicature, and requiring from the parties what was only to be expected in the judge, and what indeed was desirable in him only. The very essence of the character of an accuser was zeal for the proof of his accusation and the conviction of the accused; and it was of no consequence to the trial whether that zeal proceeded from personal animosity, or any other motive: so that the zeal actually existed, it was sufficient for the end, and it was not worth inquiring whence it arose. If the parties to a trial should not feel that partiality, which however it was in fact impossible for them to want, trials would be conducted in a more dull and languid manner. If that were the case, the advocates might be considered as judges, and no person feeling an interest in the event of the cause, none would exert themselves to bring forth the truth; which, in all judicial inquiries, was always to be decided by the contention and opposition of the advocates or the parties. It was, perhaps, by confounding the functions of a witness and an accuser, that gentlemen were induced to entertain the ill-founded idea, that private resentment unfitted a man for the character of an accuser. An idea which could only be supported by imagining that a judge would take for granted the bare assertions of the advocate; for he was usually the accuser; but no judge would give any credit whatever to the statement of the parties of their advocates, unless substantiated by proof. Even a witness was not disqualified on account of partiality; for, in fact, every witness was in some degree partial. If the judge perceived more than an ordinary degree of animosity on one side, or favour on another in a witness, his business was to examine him with greater caution, and to cross examine him more closely; but he could not, for that reason, reject him entirely.—The next thing to consider, was, whether his hon. friend laboured under this impression or not? This, he declared, he could see no reason for imagining; for, unless the necessary consequence of a duel was a perpetual enmity, it was impossible from any thing which had appeared to the House, to take it for granted that it subsisted in the present case. He stated, that the opposition of Mr. Francis to Mr. Hastings had commenced long before the duel, even from the time of his arrival in India, and he asked, whether any gentleman having a lawsuit with another, and that other person fastening a quarrel on him (for Mr. Hastings had avowedly been the aggressor) he would, for that reason, immediately relinquish his cause, and give up his property, because he had a private and

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personal quarrel with his antagonist. He hoped no gentleman would argue, that in a case where the person was only a trustee for another, it would be more incumbent on him to act in such a manner than where he was personally concerned. In that case, he would, to the absurdity of complying with a false punctilio of delicacy, be guilty of the crime of breach of faith to those who had confided in him. This, he said, was Mr. Francis's case. He had been entrusted by the public; he saw the public wronged by Mr. Hastings, and he determined to do justice to his masters, by bringing the delinquent to an account for his malversation; the delinquent quarrels with him, and they fight; and, for that reason, merely because a private injury is superadded to public offences, the public are to lose the means of bringing to punishment the person who has violated the trust they have reposed in him. All this heap of absurdity must be maintained before any reasonable ground could be laid for the rejection of Mr. Francis. No man, indeed, could impute any blame to those who indulged themselves in the nicest feelings of delicacy, or who carried the punctilio of honour to the highest pitch, provided they did not suffer those minor virtues to get the better of higher duties; for then they became vicious, instead of being meritorious. But, in this case, the House could not give way to any such feelings of delicacy, without abandoning the important business they had undertaken, and which they were bound to bring to perfection. And he made no scruple to declare, that the exclusion of Mr. Francis was, of all other measures, that which was most calculated to defeat the prosecution. In him, the Committee would lose the person best qualified, from his great, tried, and acknowledged integrity, and from his former situation and employment, which were best calculated to give him an insight into the subject to which their attention was to be directed. On the whole, he expected that those gentlemen who intended to oppose the motion, would first endeavour to show both that Mr. Francis had a personal animosity against Mr. Hastings, and also that a personal animosity was a sufficient disqualification for an accuser.

Mr. *Pitt* said, that he did not feel the necessity of entering into a minute investigation of the elaborate speech of the hon. gentleman who spoke last, as well as that of the right hon. gentleman who moved the question, because he did not think that their reasonings were perfectly applicable to the point in discussion. He did not think it necessary to inquire whether it was fit that an accuser should have indignation or not, whether he should have the zeal that arises from partiality, or the indifference that was too often the concomitant of impartiality—all that was not necessary to be inquired into; for in his opinion it was not a question of argument, but one of feeling. It was not necessary to scrutinize what were the feelings of gentlemen on the other side. They had no right to question or to analyze them, but in return they were entitled to the enjoyment of their own feelings undisturbed; and if gentlemen did feel that there was an impropriety in their choosing an hon. gentleman to represent the House of Commons in the prosecution of their impeachment of a person against whom they had found various heavy charges, was it therefore to be imputed to them that they were slack in the prosecution, or that they were desirous to crush it? Might it not be fairly said, that in their earnestness for the success of their impeachment, they chose to take from it every appearance of improper motive, and prevent even the suspicion of any such existing? He knew, for one, that it could not be fairly imputed to him, that he was not sincerely disposed to the impeachment, since his conduct had demonstrated his sincerity; but he did not think that the way to prove that sincerity was, to appoint as their representative the only person in the House who had, upon a former occasion, been concerned in a personal contest with Mr. Hastings. The argument, that the prosecution would be injured by the absence of the hon. gentleman, could not justly be entertained for one moment. To look at the abilities of the gentlemen who were to manage the prosecution, was sufficient to give the House confidence in its management, and besides, the hon. gentleman was still at hand; and in addition to all the materials with which he had already furnished them, could be consulted, or even examined at the bar. They had lost only his eloquence, of which, distinguished as it was, they were not in want.

Mr. *Sheridan* said, that he had frequently had occasion to admire the admirable talents of the right hon. gentleman who spoke last. His address and management were the constant objects of

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his envy. His forward and enterprising qualities which he had so eminently displayed at one time, could only be equalled by his prudence and discretion at another. His prudence, however, had never been more conspicuously proved than on that evening, for his prudence had wisely prevented him from undertaking the task of answering two of the most eloquent speeches he had ever heard. But the right hon. gentleman, though he found it indiscreet to attempt to answer them, had been so good as to entertain them with a new discovery. He had discovered that this was not a question of argument, but of feeling. A new system of proceeding and discussion seemed to have taken place in that House, and every topic that occurred was to be resolved into two general heads. If any inquiry was to be urged on any ground of unexplained expense, or of alarming and offensive projects, it was instantly to be supported by confidence in the minister. If any question was agitated, in which the minister was not personally interested, then it was to be resisted on the ground of feeling; and thus to harmonize the House of Commons, and to put an end to all argument and contention, their whole proceedings were to be divided between, and conducted by, confidence and feeling. It was not, however, difficult to draw within a narrow compass the true state of this question. When Mr. Francis first arrived from India, there might be some difficulty as to the part he was to take; whether it should be the manly and open part of an accuser coming forward in his own person, and standing responsible for the accusations that he made; or whether he should shrink from the duty which he owed his country, and conceal the important truths of which he had the fullest knowledge. The course to take, in this case, was easy to be settled in the mind of a manly character, and there was nothing in the whole tenour of the relative situation in which he and Mr. Hastings stood in India that ought to have prevented him from thus coming forward. What was it but a continued state of opposition on the part of inflexible integrity to corruption—of conscientious discharge of duty to an interested violation of orders? And what was it to the purpose that this opposition produced a personal contest? That contest was the slightest mark of the opposition which had passed between them. At length, however, it was indirectly inferred that Mr. Francis might with delicacy furnish assistance in the dark; he might act under covert, and give them sly and secret aid; but if he stood fairly and handsomely forward, and avowed the information which he gave, then a certain undescribed and equivocal feeling was to be outraged.

Mr. *Grenville* said, that the present question was not an investigation into the character of Mr. Francis, but merely an inquiry whether, under the peculiar circumstance in which he stood, as having had a personal quarrel with Mr. Hastings, and as being the only individual in the House who was supposed to have a personal enmity to him, it was right in the House to choose him as one of their representatives for managing the impeachment. For his own part, he had no hesitation in saying, that in such circumstances, the House ought not to select him as a person peculiarly fit for such a trust.

Mr. *Francis* rose and said:

Mr. Speaker; before I offer any thing to the consideration of the House on the present occasion I beg leave to return my very sincere thanks,—not to my honourable friends near me, for that I am utterly unequal to, but to the two hon. gentlemen who spoke first on the other side of the House, for the candid, open, and liberal manner in which they have explained the ground of their opposition to the motion. They think, and they declare, that having had a duel with Mr. Hastings, I ought not to be employed in impeaching him. This is the first time I ever heard the objection stated in a regular parliamentary way. I am indebted to them, therefore, not only for the fair and honourable terms in which they have expressed it, but even for the objection itself; because it has relieved me from great anxiety. I now understand what the objection is, and what it is not:—it is a scruple that regards a point of honour:—it is not an imputation:—it is not a reproach. I have attended this debate, Sir, of which I knew I was to be the subject, very much against my inclination. It is not an easy situation; but I could not avoid it with propriety. I thought it would be proper and becoming in me to appear and be ready to answer or to explain any thing which, in the judgment of the House, might call for explanation. Nothing of that kind having occured, I shall not have occasion to solicit your at-

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tention for more than a few minutes. It has been formally and explicitly stated to you, by great authority, that the point in debate is not a question of argument, but of feeling. This is the avowed principle on which the motion is opposed. I do not mean to object to this state of the question, or to any other, on which any gentleman may choose to consider it. Allow me only to express my hopes, that gentlemen, who are so properly and honourably careful of their own feelings, will not confine their attention to themselves, but have some consideration and tenderness for the feelings of others. The very care, with which they guard their own sensations, entitles me to expect that they will be equally cautious of wounding the honour of an individual to whom no offence is imputed.

It would be a poor and useless affectation in me to pretend that I received the vote, which past a few days ago, with indifference, or indeed without serious concern. I could not but be sensible of the turn that would be given to it, and of the impression it would probably make abroad to my disadvantage. I could not see myself excluded from sharing in the labours of my hon. friend, without looking back to the situation in which I was forced to abandon him, with the deepest regret. His abilities are equal to the task he has undertaken, if any human abilities are equal to it. Of this heavy burthen he must now support my share as well as his own; yet the labours which had necessarily fallen to his lot, required no addition. In saying this, however, or in any thing else which I may say to the same effect, I most earnestly wish to guard myself against an obvious misconstruction. While I lament the consequence of the vote that excludes me from any share in the impeachment of Mr. Hastings, let no man think it possible, that I mean to solicit the House to alter their resolution. I deny and disclaim the intention, and deprecate the imputation of it.—Setting aside the single consideration of the assistance I owe to my hon. friend, what can I desire better for myself than to be excluded, without disgrace, from any farther concern in this toilsome, invidious, and most unthankful office? If I am a rational creature, if I have not utterly lost my understanding, what could I imagine more for my honour, for my advantage, and for my happiness, than to be dismissed by an act of power, at this particular point of time, at this particular stage of the business, from any farther share in it? My object, as far as I had any personal object in the prosecution of Mr. Hastings, is accomplished. The House have approved and confirmed the principles of my opposition to him, and adopted my opinion of his conduct. In condemning him they have acquitted me. The impeachment must go to trial. Thus far I have voluntarily and zealously taken part in the prosecution of Mr. Hastings, and thus far it has succeeded. Some men think that I have had a principal share in this business; others are ready enough to affirm, that I am the sole author of it all. The fact is, that in the face of a thousand difficulties, our joint and common efforts have hitherto been rewarded with success. I am now discharged from the conduct of a cause which, of my own accord, undoubtedly, I should never have abandoned. If it should fail hereafter, I shall have nothing to answer for. It will belong to others to answer for the event, if the event should finally disappoint the public expectation of justice. I have called the vote, by which I have been dismissed, strictly and exclusively an act of power. I cannot call it a prudential act, because no motives of prudence were assigned for it. I cannot call it a judicial act, without attacking the justice of the House, and affronting the honour of every individual who took part in it. To affirm, or to suppose that this House could intend to express a censure, in that censure to inflict a punishment, and in that punishment to convey a disgrace, the severest of all punishment to an honourable mind;—without a hearing of parties; without a charge or defence; without evidence or inquiry—would be to accuse this House of a shameful violation of every principle of justice, and of totally forgetting their own honour as well as mine.

I do not mean, Sir, to enter at all into the reasons, which ought to induce the House to reject or agree to the present motion. The arguments on one side have been stated with unexampled eloquence and abilities, and nothing has been opposed to them on the other. Whether the character of enemy be incompatible with that of accuser; whether it be, or be not a wise principle, to endeavour to engage the passions of individuals on the side of justice; whether it be perfectly clear that this House, acting not merely for themselves, but in a fiduciary capacity for all the Commons of Great Britain, are

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warranted in laying aside those instruments which are most likely to act with vigour and activity in the cause of national justice, are questions, which I submit—I will not say with indifference, but with perfect resignation, to the judgment of the House. At the same time, Sir, though I have no manner of anxiety about the conclusion, I should be regardless of the truth, and careless of my honour, if I suffered the premises to be taken for granted. I deny that I am, or ever was, the enemy of Mr. Hastings in that personal sense in which it is imputed to me. When I moved the revenue charge, some months ago, the House condescended to listen with attention to a short narrative of all the transactions between me and Mr. Hastings. I thought and was assured that they were satisfied with my conduct. They had already appointed me [see p. 894] one of the Secret Committee for preparing the impeachment, and they resolved to impeach him on the particular charge moved by me, [see p. 913]. It is true, the House was not very full that day; many gentlemen, who now hear me, must have been absent. I shall, therefore, request your permission to repeat the substance of what I submitted to you on that occasion, without argument or detail. All I mean is, to state the facts briefly, and to leave the results from them to be determined by their impression on the minds of every man of honour who hears me. I was appointed by Parliament with sir John Clavering and colonel Monson to a place in the government of Bengal in conjunction with Mr. Hastings, whom we had never seen. We went to India prejudiced, —passionately prejudiced in his favour. Almost instantly after our arrival there we found reasons to abandon the opinion we had formed of him, and instead of supporting we attacked him. At that moment at least there could be no personal animosity in us towards a man, who had never personally offended us. From the moment we knew him, our opposition to him began, and was continued by each of us, without intermission, as long as we had the power of opposing him. Whatever may be thought of my character, no man, I believe, will attribute the conduct of my honourable colleagues to base, vindictive motives. This honourable House, I am sure, will never concur in any thing that offers an indignity to the venerable names of Clavering and Monson. In the year 1780, a pacification took place between Mr. Hustings and me; the reasons and purposes of which it is unnecessary to mention, as they are fully stated in the Reports of the Select Committee. Out of this pacification a difference between us unfortunately arose, which ended in a duel. Of the merits of the question I say nothing. The language he made use of, on the records of the council, obliged me to seek for reparation in point of honour, at the hazard of my life. It would be absurd to call it revenge. The aggressor in effect is the challenger, and meets his opponent on equal terms. It is but justice to him to say, that he behaved himself perfectly well in the field. It was my lot to fall. At the approach of death, which I thought inevitable, the affairs of this world in a moment lost all their importance; the veil was removed; I thought of nothing then but to die in peace with all men, particularly with Mr. Hastings. I called him to me, gave him my hand, and desireed him to consider in what situation my death would leave him. By that action, and by those words, undoubtedly I meant to declare that I freely forgave him the insult he had offered me, and the fatal consequence which had attended it. I meant that we should stand in the same relation to each other, as if the duel and the cause of it had never happened. But did I tell him that if I survived, I would renounce the whole plan and principle of my public life; that I would cease to oppose his measures; that I would desert the charges, which I had already brought against him, or not prosecute him by public impeachment if I could? No, Sir, never; nor am I charged with it. If I had done so, I must have dishonoured myself for ever, without a motive and without a compensation. On my return to England, I found that a parliamentary inquiry into the late transactions in India was already begun, and I was almost immediately ordered to attend one of the Committees employed upon that inquiry. Of those gentlemen who think that I ought not to appear against Mr. Hastings, I beg leave to ask, in what manner I ought to have acted? Could I, without treachery to the public, refuse to give evidence or information necessary for the public service, when it was demanded of me by the authority of the House of Commons? or, in fact, was it in my power? Will any man affirm that I had an option? If not, the single question is, in what form and manner did it become me to appear and act as the accuser of

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Mr. Hastings? What in the character of evidence only? Would that have been a part to which no enmity, no malice could have been imputed. Would it have been honourable in me to stand aloof or hide myself, while in fact I supplied the information, while I furnished the materials, and prompted the prosecution? or, am I thought to have acted dishonourably, because I declared myself the public responsible accuser of Mr. Hastings? because I avowed my principles, because I stood forward in the charge, and hazarded all those consequences of obloquy, retaliation, and revenge, which a public prosecutor must encounter, but which a secret, skulking accuser may very easily avoid? These are questions, I trust, which answer themselves in the mind of every man of honour. Sir, I do not mean to say, that the circumstance of my having had a duel with Mr. Hastings never occurred to me as an objection, which possibly might have weight with others, though it appeared to me of no consequence. It did certainly occur to me as a doubt, on which I ought not to trust entirely to my own judgment. But, the honourable person whom I consulted is no more, and for that reason I have been hitherto tender of mentioning his name. They who knew sir William Draper, I am sure will acknowledge that there could not be a stricter and more scrupulous judge of points of honour than he was. If it were possible to produce the opinion he gave me, in approbation of the conduct I have pursued, I should look no farther. But there is an authority to the same effect, which I am able to produce, and which, though negative in its form, I doubt not will be deemed equivalent to any positive opinion whatever. I have now been engaged above two years in constant intercourse and connexion with twenty gentlemen of the first character in this kingdom, and in constant conversation with them on the subject of this impeachment; I mean particularly the gentlemen who compose the present committee, as well as many others. I appeal to their testimony, I appeal specially to the hon. general officer near me (General Burgoyne), whose opinion, I believe, will be allowed to be authority, not only to me, but to the world. Did any of these gentlemen ever directly, or indirectly, signify to me a doubt about the propriety of my conduct? If they did, I call upon them now to declare it. Is it a thing to be believed, that if they had felt a scruple, in point of honour, on this subject, they would never have expressed it to me, or that they would have acted with me, if I had known and disregarded their opinion?

Thirteen years are now elapsed since I first was connected in office with Mr. Hastings. Six of them were wasted in India in perpetual contest with him. Seven years ago, I left him there in possession of absolute power. In all that time no charges have been produced against me. Yet I think it cannot be said that I have been particularly cautious not to provoke hostility, or that there is no disposition any where to accuse me. Surely, Sir, if accusation is ever to come, It is high time it should appear. If now, or at any other period, I should be obliged to change place with Mr. Hastings; if hereafter it should be my lot to be accused, I shall assuredly never object to his being my prosecutor; for, though by removing a powerful, a well-informed, and, in the sense of the present argument, an inveterate accuser, I might provide for my safety, my honour would be lost. Let those gentlemen who are trusted with the care of Mr. Hastings's honour consider what they are doing.

I beg of gentlemen to observe, that in the present question I am nothing but a passive instrument at the disposal of the House. If they think fit to employ me, I shall endeavour to execute their commands with industry and vigour; if not, I shall consider it as the happiest period at which I could receive my dismission, and rejoice in the liberty, to which it will restore me, of turning my thoughts to some other object, of applying my faculties to some other occupation. That I should ever be engaged in another service, so laborious, so invidious, and so unprofitable, as this has been, I am sure is impossible.

Mr. Francis left the House as soon as he finished his speech.

Mr. *Dundas* said, that when he had voted for the appointment of Mr. Francis to be one of the committee of impeachment, he did conceive himself pledged to vote for him as one of the managers for conducting it; and he had yet heard no reason to induce him to alter his intention. The question of feeling, he confessed, did not strike him so strongly as it had some of his friends. As to the character of Mr. Francis, he did not think it necessary to say any thing on the subject; he only knew it from public records.

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General *Burgoyne* rose to bear testimony to the manly conduct and character of Mr. Francis, which he knew to be regulated by the most scrupulous regard to honour in every action of his life.

Major *Scott* said, I should not have risen on the present occasion, had I not been called upon so particularly by an hon. gentleman, who I am very sorry not now to see in his place; but as Mr. Francis has appealed to me, either to verify or contradict what he asserted, in justice to him, therefore, I rise, and I hope to deliver what I have to say in the same calm and temperate manner that Mr. Francis spoke; trusting that some of his friends will state fairly to him what I shall say. It was not ten days, but in three or four after his arrival, that violent disputes broke out in the Council of Bengal. These disputes continued unremittedly until December 1779, some time after Col. Monson and General Clavering had died. They were carried on apparently upon public grounds; nor do I know that Mr. Francis and Mr. Hastings had to that time a private difference. In the latter end of December 1779, a gentleman well known to have been upon the most intimate terms with Mr. Francis, and a particular acquaintance of mine, had a long conversation with me on the state of public affairs. He lamented to me that two men of such abilities as Mr. Hastings and Mr. Francis should continue at variance—said that it would be of infinite importance to the public service if they could agree, and in these sentiments I very sincerely joined him. I was at that time aid-de-camp to Mr. Hastings; and not conceiving the conversation to be a matter of accident, I communicated it to Mr. Hastings the next morning, but not being of consequence enough to form a pacification, as Mr. Francis calls it, or a coalition, as I term it, the negociation, by some means or other, transpired to sir John Day, then the Advocate-general in Bengal, and ended in an agreement in February, 1780. By that agreement certainly there was a termination of all former differences, for, though each might retain their own sentiments, enmity was at an end. In July, 1780, Mr. Hastings publicly, in a minute at the Council Board, accused Mr. Francis of having forfeited the faith which he had pledged to him; and this in such strong language, that a duel was the consequence, and the result we all know. Let me now put the case home to the feelings of every gentleman in the House. The right hon. gentleman who made the motion of this day, and a right hon. gentleman (Mr. Burke), have both pledged themselves in the most solemn manner, to bring a noble lord (North) to the block. God forbid that such an event should ever happen! I lament sincerely the unfortunate state of the noble lord's health, and his absence from the House; but admitting for a moment, that after the coalition which did take place between these right hon. gentlemen and the noble lord, a quarrel had happened, and losing the benefit of their support, the noble lord had been impeached: if the House had thought ever so highly of the justice of the impeachment, they would have been shocked at the idea of appointing those two gentlemen to be managers, after a coalition had taken place, which necessarily implied an oblivion of all former causes of difference. Mr. Francis, after he had recovered from his wound, came home; but here he has not given his history faithfully. I know he was bound to give true evidence to the Select Committee when called upon; but was he bound by a sense of duty to calumniate Mr. Hastings, to abuse him in anonymous pamphlets, to circulate those pamphlets under blank cover to noble lords who must be the judges of Mr. Hastings? These are not the acts of a man who is impelled merely by a love of public justice. As to myself, I declare, upon my honour, that when the motion was made last year to negative Mr. Francis, I was not privy to it, nor was I to the motion of Wednesday last; but being made, I voted for it, because I deem Mr. Francis to be an improper person to be in any situation in which Mr. Hastings is concerned. But I fear not Mr. Francis in any situation. I do not dread his abilities at the bar of the House, or elsewhere;—but when a question was put without my previous knowledge or concurrence, I deemed it an act of strict propriety to support it.

Mr. *Burke* said, that he could not let the question come to a vote without expressing the indignation he felt at the very extraordinary conduct of the gentlemen on the other side of the House, in the part they had taken in the debate of that day. Instead of fairly meeting the argument, and candidly giving their reasons for opposing the nomination of his hon. friend, they had taken a new ground, and introduced into the senate the lan-

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guage of the toilette and the drawing room. Was it fit and becoming in any member of that House on a great and important public question to say, that his feelings were so much hurt that he felt himself compelled to abandon investigation and argument that he might not violate his delicacy? What was delicacy? —it was a term to which no definite idea had been found; at best it was but a superadded flower to virtue—it was but the ruffle of the shirt—but here the shirt was laid aside, and the ruffle only remained. Delicacy and feeling might be very proper terms of speech to express the sensations felt in consequence of the exertions of an opera singer, or a performer on the violin and German flute; but was it fitting that the solemnity and dignity of parliamentary deliberation should be insulted by such unmeaning nonsense? In spite of all the respect which he entertained for the splendid abilities of those with whom he acted, he could not avoid declaring, that the assistance of his hon. friend was essentially necessary to enable the House of Commons to make good several of the most important charges in their impeachment. That relative to the revenue was not the only one which stood in need of his aid. Mr. Hastings, in his answer, had alleged, that to those who were acquainted with the local customs and prejudices of the East, it would be easy to account for many parts of his conduct in the administration of his government, which, perhaps, might incur the censure of those who were ignorant of oriental manners and customs. Was it not therefore necessary that, in the Committee, there should be some person to whom they could appeal for information on this subject? If there was not, they must either abandon the charge altogether, or they must tell the House of Lords, that they could not establish the fact, as their feelings had deprived them of the assistance of a gentleman, who was perfectly qualified to give the necessary information.—Adverting to the quarrel between Mr. Hastings and Mr. Francis, Mr. Burke condemned the former for having, with all the interference of a brothel-brawl and the intoxication of a tavern, stained the minutes of the council, of which he was the head, with a personal challenge; nor was he satisfied till he had four or five ounces of his best lead lodged in Mr. Francis's body. Mr. Burke declared, that though he had exhausted industry in the investigation of the charges against Mr. Hastings, yet, he repeated that the assistance of his hon. friend was essentially necessary, and he trusted that the House would agree to the motion.

The question being put, the House divided:

Tellers.

Yeas	Sir James Erskine . . Mr. North	62
Noes	Mr. J. J. Hamilton . Mr. Steele	122

So it passed in the negative.*

* A few days after this debate, the following Letter was sent by the managers of the Impeachment to Mr. Francis:

"To Philip Francis, esq.

"Committee Room, House of Commons, "December, 18, 1787.

"Sir; There is nothing in the orders of the House which prevents us from resorting to your assistance; and we should show very little regard to our honour, to our duty, or to the effectual execution of our trust, if we omitted any means that are left in our power to obtain the most beneficial use of it.

"An exact local knowledge of the affairs of Bengal is requisite in every step of our proceedings; and it is necessary that our information should come from sources not only competent, but unsuspected. We have perused, as our duty has often led us to do, with great attention, the records of the Company, during the time in which you executed the important office committed to you by Parliament, and our good opinion of you has grown in exact proportion to the minuteness and accuracy of our researches. We have found that, as far as in you lay, you fully answered the ends of your arduous delegation. An exact obedience to the authority placed over you by the laws of your country, wise and steady principles of government, an inflexible integrity in yourself, and a firm resistance to all corrupt practice in others—crowned by a uniform benevolent attention to the rights, properties, and welfare of the natives (the grand leading object in your appointment) appear eminently throughout those records. Such a conduct, so tried, acknowledged, and recorded, demands our fullest confidence.

"These, Sir, are the qualities, and this is the conduct on your part, on which we ground our wishes for your assistance. On what we are to ground our right to make any demand upon you, we are more at a loss to suggest. Our sole titles, we are sensible, are to be found in the public exigencies, and in your public spirit. Permit us, Sir, to call for this farther service in the name of the people of India, for whom your parental care has been so long distinguished, and in support of whose cause

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Proceedings on the Impeachment of Sir Elijah Impey.] Dec. 12. In pursuance of his notice,

Sir *Gilbert Elliot* rose and said, that he lamented that the first time in which he had occasion to call the attention of the House of Commons in the present Parliament, he should stand in the unpopular and disagreeable character of an accuser. Those who knew him best, and who were acquainted with the complexion of his mind, and its habits, would be able to estimate the discomfort that he felt under such a predicament, and at the same time would he trusted, do him the honour to bear testimony to his heart, that such a task was highly incompatible with his natural feelings, and directly contrary to his common conduct. Instead of standing up there as the accuser of any man to gratify his natural disposition, he could have wished that it had fallen to his lot to appeal to the House in favour of distinguished merit, and to call on their gratitude and justice for rewards of services honourably performed.

But next to the pleasant duty of bestowing honours on great and distinguished men, who having been invested by their country with high power, had exercised it with exemplary moderation, and who being intrusted with the custody of the lives and properties of their fellow-creatures, had preserved them against outrage and oppression, was the necessary, though painful task, of drawing down the vengeance of Parliament on the head of a servant, whose pride had stretched his power into tyranny, and whose avarice had perverted his trust into plunder. He begged of gentlemen to consider, that if he that day stood up to accuse one person of high crimes and misdemeanors, he at the same moment presented himself in the character of an advocate for oppressed millions; and they would consider also, that in redressing the grievances of nations, in preserving the weak against the violence and the rapine of the strong; in administering justice with integrity themselves, and in taking care that it should be administered by others, consisted the grandest and most enviable distinctions of a powerful and enlightened senate.

That the House of Commons had manifested their honourable determination that every subject of the extended empire of Britain should partake of the purity of its system, as to the protection and equality of its laws; and that no officer, however highly endowed with power, should dare to outrage his fellow subjects by acts of turpitude and cruelty, was a truth which cheered and supported him in the arduous undertaking which he had assumed; and it gave him much confidence and comfort, that the highest authorities in that House had shown, that they were disposed to join cordially in the general determination of the House. He undoubtedly had need of much indulgence. It might be said, that he had not been able to avail himself of any particular opportunities of seeing the transactions in India. He certainly had not seen them with his own eyes; but for several years past, the principal part of his time and labour had been devoted to the study and contemplation of the affairs of India; and he did not hesitate to say, that poor as his abilities were, unfortunate as it was for the task that had fallen to his hand, he was convinced that if the House would enter on the inquiry, they would find that the person whom he had accused had been guilty of the most scandalous enormities; that many millions of people to whom he had been sent to administer law had been oppressed and plundered under its colour; that being sent with the power of making them know and feel the blessings of the pure and equitable system which the legislature of England had in its wisdom and benevolence devised for their protection, he had perverted it to the most scandalous purposes of tyranny; that thus he had alienated

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you have encountered so many difficulties, vexations, and dangers.

"We have expressed sentiments in which we are unanimous, and which, with pride and pleasure, we attest under all our signatures, intreating you to favour us as frequently as you can with your attendance in the Committee; and you shall have due notice of the days on which your advice and instructions may be more particularly necessary. — We have the honour to be, with the most perfect respect, Sir, your most faithful and obliged humble servants,

"EDMUND BURKE, Chairman.

C. J. Fox,	Maitland,
R. B. Sheridan,	Dudley Long,
Thomas Pelham,	John Burgoyne,
W. Windham,	Geo. Aug. North,
Gilbert Elliot,	St. And. St. John,
Charles Grey,	Richard Fitzpatrick,
William Adam,	Roger Wilbraham,
John Anstruther,	John Courtenay,
Mich. Angelo Taylor,	James Erskine."

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the hearts of the people of India, and had stained the name of Britain.

In confidence that these things would all be made evident in the course of the inquiry, he was bold enough to stand up and charge sir Elijah Impey with High Crimes and Misdemeanors committed in India. In doing this it was particularly grateful to him that he could not be suspected of party motives. There could be no faction involved in this prosecution; for the protection of the weak and the punishment of the guilty did not belong exclusively to any side of that House. Besides, by a little attention to facts it would be found, that no one side or party could possibly lay claim singly to this charge, nor could it affect any other party. In the year 1774, sir Elijah Impey went out to Bengal; the year 1775 had not elapsed before a formal and serious complaint was preferred against him for mal-administration of his powers, and for having perverted the functions of the Supreme Court to purposes of scandalous tyranny and abuse. This was in the year 1775, and every year afterwards brought similar charges against him, so that not only the Court of Directors, but that House had thought fit to recall him from his high office; and full five years ago he stood announced on the records of that House as a public culprit. This would prove that in this charge there was nothing hostile to any party. Sir Elijah Impey was not a member, and he knew of no party in that House who had reason to assert that there was any factious motive at the bottom, or that he stood in any other light than that of a voluntary agent for many millions of oppressed and outraged fellow-beings.

He trusted that in the prosecution of this business, it would always be present to the minds of gentlemen, and he begged leave to assume it as a fundamental principle: that our fellow-subjects in India were entitled as well as ourselves to the enjoyment of fair and equal justice; and that the code of laws which had been devised for their protection should be administered with purity and impartiality. It was certainly as easy to make laws for the people of India as for the people of England. The difficulty was in their not being executed as well. In England, the arm of justice was under the immediate eye of the legislature that made the law, and egregious abuses could neither escape instantaneous notice, nor instantaneous correction. But it was not so with the course of justice in a place so remote as India. Much must be trusted to the purity, the integrity, the moderation of those persons who were entrusted with its powers; and all that the legislature could preserve was the power of exemplary punishment on the conviction of enormous abuse. Perhaps nothing was so truly abhorrent to the heart of man, nothing so deserving of the rigour of national justice as a corrupt administration of law. It was such an instrument in the hands of a bad and profligate man as to make the heart shudder at the uses to which it might be applied, and therefore, more, perhaps, than any other species of delinquency, did the crimes of a judge call for the vengeance of a nation.

Sir Gilbert now proceeded to state the nature of the case, on which the prosecution was to be founded. He related the circumstance of the Act passed in 1773 for the appointment of a Supreme Court of judicature in Bengal, and the nature and extent of the powers committed to the judges. From thence he went to the appointment of sir Elijah Impey, and the almost instantaneous use that had been made of his powers. That these were fit subjects for the attention of that House it would not be necessary for him to take pains to elucidate, and he trusted that the current language which was held on the first institution of the Indian code, and the Supreme Court, would not prevent gentlemen from seriously entering into this important investigation. He knew that the institution had been called a law job—that it was intended as a colony for the bar in Westminster-hall, by which young adventurers in law as well as politics were to carry their talents to the Indian field, and by which, in due process of time, that House was to behold a learned as well as a lay squad from Bengal. All this he trusted would be thrown totally out of the minds of gentlemen; for it was highly inconsistent with the dignity of Parliament to imagine that a solemn institution of law, by which many millions of people were to have the blessings of justice, or the miseries of the perversion of it, could ever have originated in so base a motive as a job. Much less, he trusted, would it be imagined, that this prosecution brought disgrace and ignominy on a profession which, when it was dignified by truth and integrity, was the source of the greatest honour to its

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members, as well as of the greatest good to the community. He knew that the bar of England, distinguished as it was for purity and honour, felt becoming indignation at the enormities committed by the person whom he now arraigned. Participating in their feelings, and equally solicitous of the vindication of the bar, he felt it so much the more his duty, by the condign prosecution of this unworthy man, to justify a profession to which he had once the honour to belong.

Sir Gilbert next observed, that he had taken pains to arrange and prepare for the inspection of the House the whole subject matter of the complaint which he intended to make against sir Elijah, and that it was detailed in papers which he held in his hand. He thought it more adviseable for him to give in this complaint in writing, and to move that the papers should be submitted to a committee, than to trust to any brief and imperfect statement which he might be able, as a part of his speech, to make from them. The weight of the charges depended so much on the detail of the functions of the court, and of the evident motives by which sir Elijah was influenced, and they were in their connexion so related and dependant on each other, that much of their strength would be lost by the few extracts that might be made by him; nor was it necessary in that stage to instance the particular enormities which constituted the foundation of the charges. That House had been so accustomed to hear and to speak on these topics, that they were not new to them, and it was by no means his wish to influence them by needless appeals to their humanity. The time would come when the crimes of this man must awaken every abhorrent feeling of our hearts.

Meanwhile he would only state, That his first charge related to the melancholy case of the rajah Nundcomar. The next was, that which was known by the name of the Patna Cause. The third respected the unaccountable extension of the jurisdiction of the Court. The next was the Cossijurah Cause. The next respected the acceptance of the office, known by the name of the Sudder Duannee Adaulet, with an enormous salary annexed, in direct disobedience to the act by which he held the place of supreme judge; and the last was founded on the affidavits which he took at Lucknow, and the scandalous prostitution of his high authority in that instance.

From these the House would perceive that the charges were heavy indeed. They would see that by the first, he accused sir Elijah Impey of wilful and deliberate murder, committed on the body of a rajah, in direct violation of the laws of his country. In doing this he certainly did not mean to subject him to the trial prescribed by the laws for that crime, but to point it out as a part of the impeachment for high crimes and misdemeanors. By the other charges he accused him of gross corruption, of positive injustice, of direct disobedience, of intentional violation of the acts under which he held his powers; and in the last of having suborned evidence, and given to falsehood the sanctity of an affidavit. Falsehood in the administration of an oath by a judge, was like blasphemy in the mouth of a churchman, and was of a quality so heinous and offensive as to call for the most exemplary correction. Having thus briefly enumerated the mere heads of his articles of charge, he would not take up for a moment the time of the House. The papers might be submitted to a committee who would be able immediately, or soon after the recess, to make their report; and in the mean time he should conclude with moving, "That his complaint against sir Elijah Impey, knt., late Chief-justice of the Supreme Court of Judicature at Fort William in Bengal, charging him with sundry high crimes and misdemeanors in India, be received, and laid on the table."

The motion being agreed to,

The *Speaker* asked if the Articles were to be read at length, or merely *pro formâ*. It was agreed that the latter mode should be adopted, and the titles of the different charges only were read by the clerk.

It was then ordered, "That such a number of copies of the said Articles, shall be printed as shall be sufficient for the use of the members of the House."—[See Commons Journals, vol. 43, p. 114.]

Dec. 17. The Articles being again read, were referred, on the motion of sir Gilbert Elliot, to a committee of the whole House, upon Monday, the 4th of February. After which, the House adjourned to the 31st of January 1788.

Feb. 4, 1788. Mr. Kenrick presented a Petition from sir Elijah Impey, setting forth, "That the Petitioner sees, by the votes of the House, of the 12th of De-

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cember last, that sir Gilbert Elliot has, in his place, charged the petitioner with sundry high crimes and misdemeanors: and that the petitioner is now attending on the House, and prays, that he may be heard, in answer to the said charges, now, or at such time as may be convenient to the House."

It was then ordered, that sir Elijah Impey be now called in, and heard at the bar, on the matter of the said charges. Sir Elijah being accordingly called in to the bar, he requested that a gentleman, who had come with him, might be permitted to stand by him for the purpose of reading to the House such written documents as he should have occasion to refer to. This being granted,

Sir *Elijah Impey* addressed the House as follows:*

Sir;—Having observed with great concern from the votes of this House, that an hon. member had presented articles of charge of high crimes and misdemeanors, against me, I esteemed it a due attention to the House, as well as justice to myself, to endeavour to obviate as early as possible that matter, which, from the articles having been referred to a committee of the whole House, I apprehended had already subjected me, in some measure, to its censure; and was in hopes by the assistance of a member of this House, who had taken the pains of making himself master of the facts which have given rise to the accusation, to have disclosed the nature of the defence which I could make to it; by which it would demonstratively appear, that there was no probable ground that the articles could be finally supported, and therefore that the House would not think it consistent with its dignity, wisdom, and justice, to proceed further upon them. The sudden indisposition of that gentleman having rendered his attendance in his place impossible, I despaired of having the real merits of my case, which has been strangely misrepresented, and I had reason to think almost universally misunderstood, made intelligible, unless I was permitted to lay it before the House; I therefore, though unprepared for the occasion, presented a petition that I may do it myself. I now return my thanks for the indulgence granted me thus to obtrude myself on your attention, and request it may be farther extended to me for the haste of the occasion, which will necessarily oblige me to make my address in a cruder manner than my respect for this assembly would otherwise have allowed.

But before I enter into it, I beg leave to state some particular difficulties, which I am laid under by the former proceedings of this House, and by the specific cause assigned for my recall. The whole matter of the four first articles is collected from evidence which had been drawn up by committees of this House; the last of which sat in the year 1781. It had therein been fully discussed, had been the subject of an Act of Parliament, but had furnished no charge against me. On the 27th of January 1783, I received a letter from the earl of Shelburne, dated the 8th of July 1782, which conveyed his Majesty's commands to me to return to this kingdom, for the purpose of answering a charge specified in an address, which had been laid before his Majesty in consequence of a vote of the 3d of May 1782. That vote related only to the acceptance of an office not agreeable to the true intent and meaning of the Act 13 Geo. 3. As the cause assigned for my recall was subsequent to all the transactions which have furnished matter for these charges, I entertained no idea that any thing within the knowledge of the House, prior to the cause which had been selected as a charge against me, would be objected to me. In this opinion I was confirmed by the letters of my private friends; and I was thereby induced to esteem his lordship's letter, so particularizing the charge, to be a specific notice of the whole evidence which I was to bring with me for my defence. I could not suspect, when the acceptance of an office had appeared the most proper subject for prosecution, that an accusation for so foul an offence as that ascertained in the first article could have been omitted. Under these impressions, though I collected all possible materials to defend myself against the charge of which I had notice, I did not bring any with me for the defence of those acts, which knowing to be legal, and done in the necessary and conscientious discharge of my duty, I had no reason to think could ever have been imputed to me as criminal, and for which I had reason to think, all intention of arraigning either me or the other judges, after the fullest consideration, had been totally abandoned. Had notice been given me, even after my arrival, or within

* From the original edition, printed for Stockdale, Piccadilly, A. D. 1788.

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two years of it, that these charges would have been preferred against me, I should have had full time to procure authentic vouchers and records for my judicial conduct, and witnesses to such other matters as could not be proved by written evidence: thus misled by appearances, I am called to answer those charges without any evidence but that which I may be able to extract from the very materials which have been compiled against me, and from some few papers, which I have casually, not purposely, brought with me.

With regard to the body of evidence, which may be attempted to be applied to the four first charges; I mean the Report of the committee to which the petition of Touchett and others was referred; I beg leave to read the strictures most candidly made by the committee on that evidence.

"And in order to collect and lay before the House, a body of facts, which might serve as a foundation for such provision as the wisdom of Parliament may see fit to make, towards the future tranquillity and welfare of these provinces, in every point of view so important to this kingdom, your Committee have read a number of papers transmitted from India to the Court of Directors, and to the office of Secretary of State for the southern department; and have also carefully examined several witnesses competent to afford full information, on all the objects of inquiry, which your Committee have been empowered to bring under their view.

"On these witnesses your Committee think it proper to observe, that although they are all persons minutely conversant in the affairs of Bengal, yet some of them appear to be directly or indirectly concerned in several of the transactions which have brought on the late disputes.

"Some also who are to return to India, though not themselves parties, may become, on account of their evidence, obnoxious to those who are engaged in the present contentions, and who still remain there in different descriptions of power. Others, too, have stood, and (if any prejudice does arise from the relative situations of men in authority in that country) may again stand in situations which may possibly render them as much prejudiced as any of the present parties against the power claimed and exercised by the Supreme Court.

"These observations with regard to the evidence, your Committee held it their duty to suggest; but the Committee did not think themselves justified in rejecting any testimony, on account of circumstances which seem unavoidable, in so narrow a society as that formed by the natives of Great Britain resident in Bengal nor in withholding from the House, on their own opinion, any matter of information derived from the only source from whence the necessary information can be drawn. A difficulty nearly of the same nature occurred with regard to the written evidence; a great part of the papers transmitted not having been previously communicated to each other by the contending parties. The advantage therefore to be derived from their reciprocal corrections and explanations, from their denials of unproved and their supplements of defective facts, is thereby inevitably lost to the Committee and to the House.

"It appears expedient also to state to the House, that no agent hath been appointed, or did attend the Committee on the part of the Supreme Court of Judicature. No verbal evidence for them was pointed out to your Committee, except a suggestion, that they wished Mr. Barwell, late one of the Council-general, to be examined; and him your Committee did examine accordingly. For the rest, the whole of the matter alleged in favour of their claims, or in justification of the proceedings of that court, is contained in the letters of the judges to the Court of Directors, in their letters to the Secretaries of State, and their arguments (as they are taken) in giving judgment on sundry cases tried before them.

"But in the midst of these difficulties, your Committee have the satisfaction to find that no controversy exists concerning the leading facts which have given rise to the dispute. The principal difference between the parties consisting in the motives assigned for the acts mutually complained of, and the tendency of those acts to the public benefit or prejudice.

"And it is remarkable that an unusual degree of consistency or uniformity prevails in the evidence delivered by so many persons, on the customs, manners, and dispositions of the natives of India; and your Committee conceive that this body of evidence, together with the other materials contained in this Report, will fully enable the House to determine on the fitness or unfitness of the application of the laws of England to the government of that people, or in deciding on the extent of the jurisdiction of the Supreme

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Court, for the purpose of superseding, or controlling, or making it supplemental to the country courts which now act in Bengal, according to the forms, and on the principles long prevalent in that part of India, which are totally different from; and in many respects repugnant to, the laws and usages of this kingdom."

These strictures contain as strong objections as can be made to any evidence adduced to support a criminal charge; and as the Committee has not pointed out what particular facts are proved by competent evidence, and what by evidence liable to the objections they have stated, it will be difficult either for this House, or any party accused on it, to discover whether the whole, or any of the facts stated, have been so proved, that they ought to be credited in a judicial proceeding.

I request I may not be understood by this observation to take any objection to the propriety of the evidence for the purpose for which it was collected—reform; but to the application of it to a purpose foreign to that for which it was collected—a criminal charge. It is stated "as a body of facts to serve as a foundation of provisions, and to enable the House to determine on the fitness of the application of the laws of England to Bengal, and to decide on the extent of the jurisdiction of the Supreme Court, for the purpose of superseding or contracting it." This was the professed object of the inquiry. Though the representations of the East India Company, or of the government in Bengal, might be admitted on their credit alone, without any investigation, as sufficient for the object of reform, yet I submit that those representations, or such parts of the evidence as are liable to these objections of the Committee, cannot legally be applied to substantiate a criminal charge, even if collected for that purpose.

It has been urged, that the first article is supported by the general sense of mankind, by the opinion of the majority of the Court of Directors, collected from their letter to lord Weymouth in 1777, and that of the majority of the members of the government in Bengal in 1775. As part of my defence depends on the public acts of these two respectable bodies, I must defer considering whether their authority ought to stand for or against me, till I have disclosed those acts. As to the sense of mankind in general, before that be admitted as a ground, it will be just to examine (if that sense has been acquired) by what means it has been acquired. If it be the opinion of the public, founded on an impartial and true statement of the facts, on ample discussion of the arguments on both sides, on a full investigation of the legality or illegality of the proceedings, and that opinion has been supported by the authority of great lawyers, whose integrity and enlightened understandings ought and are used to guide and inform the minds of the public, its authority is irresistible; in that case it may be truly said that *vox populi est vox Dei.* But if partial representations have been laid before the public; if one side of the question only has been stated; if no inquiry has been made into the truth of the facts, the legality or illegality of the proceedings; if it turns out that the public has been grossly abused and misled, by bold and false citations of the greatest law authorities of this kingdom; to give equal weight to an opinion of the public so procured, would be to deliver up the lives, properties, and fame of the best men to the rage of partizans and the virulence of libellers, who are the base and mercenary instruments of every malignant and unprincipled faction. It is now twelve years since this nation has been deluded by false and perpetual informations, that the Supreme Court of Judicature had most absurdly, cruelly, and without authority, obtruded the complex and intricate criminal laws of England, on the populous nations of Bengal, Bahar, and Orissa, whose law, religion, and habits, were peculiarly abhorrent to them; that a native of Bengal, of high rank had been tried and convicted on a capital law of England, for an offence punishable in the place where it was committed by fine only; that the court which had tried him had no jurisdiction over his person; that he was brought within the limits of the jurisdiction by force, and in that state that the court adjudged that its jurisdiction had attached upon him; and to sum up all, in the words most deservedly odious to an English ear, he was finally executed under that, which, if a law at all, was an *ex post facto* law. These premises being stated, motives of the most atrocious nature were assigned for them; and indeed if the premises had been true, they would have been sufficient to justify the worst suspicions. I confine myself to this subject, and omit the various other topics of scandal propagated down to this hour, to keep in heat the minds of an inflamed multitude.

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These publications have not been limited to daily papers, but laboured treatises have been written, volumes have been compiled, under the specious title of Histories and Travels, to induce a belief that the subject was introduced incidentally as matter of history, when in fact the whole was fabricated for the sole purpose of disseminating and perpetuating libels of this and a similar tendency, with a more certain effect, because less suspected.

To give them a sanction, the authors have dared to make use of the high and respectable names of sir William Blackstone and lord Mansfield, as condemning the illegality of the proceedings in the case of Nundocomar; lord Mansfield is quoted in a libel published by Debrett, intituled, an Extract of a Letter from Calcutta, 1st December 1780, in these words, p. 12. "On the contrary, the legal murder of Nundocomar, as it is pointedly called by the great and good lord Mansfield, showed every person in Bengal what he was to expect." To such an authority, so openly cited, who could refuse his consent? It is not to my purpose to point out from whom they came, with whom the authors were connected, or with what immediate design they were written; it is sufficient for me to assert, that these are the materials, and the only materials, if the sense of the public has been attained, by which it has been attained.

To this accusation, thus authorized, down to the present hour, no answer has been given, which, lest it be thought an acquiescence, ought to be accounted for. It first found its way to England in secret and uncommunicated dispatches and letters, of the year 1775: it was made against the judges then absent in Bengal. It is within the remembrance of many members, that party heats, with regard to India, as well as all other national concerns, raged at that period with unbounded violence. It probably was thought the interest, for it undoubtedly was the practice, of one faction to convey insinuations against the judges, as being partizans of the opposite faction. That opposite faction, cautious to avoid the imputation of undue connexion with the judges, found it their interest not to defend them. Neutral men (if such there were) took no part, and the judges, who really were (as they ought to have been) of no party, were left undefended.

A year after the calumny had been propagated in England, it was seen, for the first time, by the judges in newspapers and pamphlets sent to India. Should they then have answered the charge? It had its full effect; and who would read, at the distance of two years, a defence on a subject grown stale and obsolete, and on which his mind had received impressions that indignation made him not wish to have effaced? Answers would cause bold replies, not again to be obviated, but at the distance of two years.

My arrival in England renewed the subject, and the papers have every day teemed with fresh libels. I resolved, and have kept my resolution, that I would not myself publish, nor, as far as I was able, suffer any publication to be made on my account. Authors have solicited me that they might write on my side; printers have applied for subjects for publications, with promises to keep their papers open for me, and with intimations that if I did not fill the chasms, they must yield to the importunities of those who were candidates to fill them up with abuse against me. I have neither yielded to their solicitations nor threats; I disdained to defend myself by the arts by which I have been attacked. To put my name to publications would have drawn into life swarms of defamers: to write, or suffer any thing to be written for me anonymously, I would not condescend. To the conscience of every individual, who forms the body of that public, whose sense is supposed to be against me, I would put these questions: whether, if he has formed any such opinion, it has not been from the materials which I have stated? Whether he has been informed of the truth of the facts? Whether he has read the Act of Parliament and the charter, constituting and giving jurisdiction to the Supreme Court? Whether he knows the state of the town of Calcutta? Whether he knows what the law was there before that charter? Whether it has been at all, or in what manner it has been altered by it? Whether he has examined the evidence at the trial, and all the circumstances under which the law was carried into execution? Whether he now knows on what the legality or the illegality of the conviction turns? If he does not, whether, before his opinion thus formed should operate as the foundation of a criminal charge, he should not have full information on those points? That information I hope to give to the House, but must first be indulged to obviate these

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authorities, which otherwise might weigh too heavy to be counterbalanced by any arguments that I might produce.

The particular condescension shown to me by the noble lord whose name has been so indecently used since my arrival, left no doubt in my mind, that it was possible his lordship's name could, with his knowledge, have been used to add authority to that libel: I rested satisfied under that conviction until this article was exhibited; then not knowing how conducive that high authority, so daringly cited, might have been to the procuring the sense of mankind, which I now first heard would be a ground urged against me, I caused application to be made to his lordship, that I might be able expressly to contradict his having termed the execution of Nundcomar a legal murder, if the fact was not founded in truth. This I the rather did, as I had learnt that the person generally supposed to be the author of that pamphlet had the credit of having means of good information. That noble lord has declared, that so far from using such an expression, he has never formed any opinion on the subject; that the assertion is an absolute falsehood, and has authorized the contradiction of it, whenever it is made, and wherever it has or is likely to gain credit.

The public has sustained a general and great loss by the death of sir William Blackstone; and I have particularly to lament that I cannot furnish the House with a living declaration from him; but I have proofs as strong, that his memory in this instance has been grossly insulted, by presuming to falsify that which was his opinion when living; for in a letter dated 30th Jan. 1779, which I had the honour to receive from that polite and accurate oracle of law, by which he introduced a gentleman to me, he concludes thus: "I have the more easily yielded to give him this letter, as it gives me an opportunity of congratulating you on the high reputation which yourself and your colleagues in office have acquired among all dispassionate men here in England, by your prudent and impartial administration of justice on many very delicate and important occasions. That your present situation may prove as beneficial in the end, as it has been honourable to you in the beginning, is the sincere wish of, dear Sir, your most obedient servant, W. BLACKSTONE." His works and opinions are now amongst the best authorities in our courts of law.

I did not intend to cite my correspondence with lord Walsingham, lord Ashburton, and the late Attorney-general (Mr. Wallace,) to prove their sentiments to be in direct contradiction to this supposed sense of mankind; because I did not know that their names had been made use of to support the same scandal; but as an hon. member of the House has lately informed me the name of lord Ashburton has been used to the same purpose, I cannot refrain from citing a passage from a letter of his to me, dated Jan. 5th, 1776, it being so expressly to this point. His words are: "The publication of the trials has been of use, as it has obviated abundance of ridiculous and groundless stories. I see nothing in the proceedings to disapprove of, except that you seem to have wasted more time in the discussion of the privileges of ambassadors than so ridiculous a claim deserved."

These were not men who would hold correspondence with judges guilty of a legal murder; these were not men who would be volunteers in applauding such conduct. They were great lawyers in their day; they are gone, and almost a new generation has succeeded them. Though it has been given out authoritatively, and propagated in print to prejudice my cause, I shall not, till I am convinced by fatal experience, be induced to believe that the gentlemen of the same profession in this House can so totally differ in opinion from them as to have reprobated my conduct, and prejudged me unheard. I do profess myself to have had a particular reliance on that part of the House, not from any mean expectation, that because I had been of their body I should be supported by it: I know the liberality of it too well to entertain so vain a wish. I know, if I be found a rotten member, I shall be cut off and thrown with detestation from it. My defence depending chiefly on matters of law, my reliance is on no personal favour, but their professional ability to determine on matters of law, and their characteristic habit, not to condemn, not to reprobate without a hearing: *Audi alteram partem* is a maxim acknowledged to be equitable by all who know what justice is:—but it is engraven on the heart of every honest lawyer. If I am entitled to it from the merits of my case, I shall have the support, not of the corps, but of individuals: they will despise the arts made use of to deprive me of it. Their characters are above the imputation of sacri-

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ficing truth and justice to the narrow principle of an *esprit de corps*. Whether I shall have it or not will depend on the Articles, and the answers which I shall now proceed to give to them.

The first Article after the introduction states these facts: that a native of high rank and great eminence in the province of Bengal, named Mahah Rajah Nundcomar, was indicted, tried, and condemned, his appeal rejected, and himself finally executed, for the crime of forgery on the 2 Geo. 2. c. 25.—charges the whole proceedings to be illegal, imputes the criminality to me alone, and accounts for that criminality by the most diabolical motives.

The first objection is, That the 13th Geo. 3. which authorized his Majesty to grant the charter, and establish the Supreme Court, "defined the jurisdiction of the court," "but did not confer nor authorize his Majesty to confer on the court any criminal jurisdiction whatsoever in any case whatsoever over the native inhabitants of the said provinces."

2d. That "albeit the said charter did contain clauses for conferring criminal jurisdiction over natives of certain descriptions," "yet the charter was not competent without the authority of parliament, and contrary to the meaning of 13 Geo. 3."

The 3d objection goes to the legality of the proceedings, "because Nundcomar was held to be subject to the jurisdiction of the court under the charter, as having been an inhabitant of Calcutta at the time of committing the forgery; that it was unjust to make him so amenable and subject to a foreign law, because he was brought down to Calcutta by force, and detained there a prisoner by order of the president and council at the time aforesaid."

The 4th is, "That the 2 Geo. 2, c. 25, did not extend to India, and that no indictment thereon against any person, whether English or native, resident in the said province, could be legal;" "for no act can be construed to extend to any dependent dominion of Great Britain, unless it be so expressed in the act:" "that there is no such expression;" but "on the contrary, the operation of the said act is clearly," "by the preamble, by the provisions," "and by the whole purview, strictly confined to the realm of England, and contains an express proviso that it shall not extend to Scotland."

5th. That "forgery was not capital by the law of the country of which Nundcomar was a native and an inhabitant; and that it is repugnant to the principles of justice, humanity, and reason, to subject a whole nation to the penalties of a foreign law," "incompatible with the opinions, manners, habits, and religion of that nation," the law being "in a language not understood by that nation," "administered by forms with which the said nation was unacquainted, by persons with whom the said nation cannot converse, utterly inapplicable to, and framed without any contemplation of, the said nation."

6th. That the 2 Geo. 2, c. 25. "could be binding in India only on the general ground, that the whole body of the English law was transplanted to the said provinces;" "which supposition is not supported by the charter, and is repugnant to reason and justice."

7th. That "the only pretence under which the proceedings could with any colour be justified," "was the operation of the charter of justice falsely pretended to be sufficient for establishing the criminal jurisdiction of the court, and the English penal law, over the native inhabitants of the said provinces," which "charter was not granted till 1774," and was not "published till October 1774;" "that the forgery was alleged to have been committed in 1770," and therefore, admitting the competency of the charter, it was an "*ex post facto* law," as applied to the case of Nundcomar.

8thly. That Nundcomar was convicted on false and insufficient evidence. To the mode of the execution it is objected, that it was in a manner shocking to the religious opinions of the Gentoos. Then the article, which at the commencement had charged, "That in violation of my duty, in direct oppression to the letter and spirit of my commission, contrary to every principle of English law and general justice, I became in effect the abettor and instrument of Warren Hastings, or of his partizans, in a wicked and unprincipled attack on the life of his accuser, and converted his Majesty's commission and authority, the laws of England, and the sacred character of magistracy, into a new means of impunity, and a new and additional engine of revenge, oppression, and terror in the hands of those whom I was commissioned to control," concludes by averring "That the said proceedings were the fruit of a corrupt and wicked confederacy between me and the said Warren Hastings, for the purpose of screening the said Warren

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Hastings from a just accusation by accomplishing the death of his accuser; and that the law of England was made the engine and instrument of the said confederacy." To support this, various circumstances of the most aggravating criminality, which I shall specify when I come to make my observations on them, are dispersed in the different parts of this Article. From these premises are drawn this conclusion, that I am in all and singular of them, guilty of high crimes and misdemeanors.

If the premises are true, they warrant a more severe conclusion; if the premises are true, I am guilty not of misdemeanors, I am guilty of murder; if for the purpose of "screening the guilty from a just accusation," I have made the "law of England the engine and instrument of a confederacy to accomplish the death of the accuser," I have been guilty of a murder of the basest, foulest, and most aggravated nature. From such premises that is the only true conclusion. I do not decline it. It would have been justice to have drawn it. My life would then have been forfeit had I been found guilty; it would have been mercy to have sacrificed that life as an atonement for these enormous crimes, which, if I am convicted of, or am to lay under the public imputation of having perpetrated, would have become a burthen too intolerable to be dragged to a distant grave.

The substance of this Article has long been before the public, but brought before it in a manner which afforded me no means of answering it. The weight of it has indeed borne so heavy on me, that nothing but the consolation of my own conscience indignation for unworthy treatment, and the expectation that the truth would at some time or other be revealed, could have supported me under it.

With an overflowing heart, I return my thanks to God, and his immediate instrument, my accuser, that he has been pleased to afford me this opportunity, now first given, of disclosing the true state of this so long misrepresented case, and of vindicating my own honour, and the conduct of the much-injured Judges of the Supreme Court.

Before I consider the objections to the proceedings, which are founded on the insufficiency of the charter of his present Majesty, I must take the liberty to observe that any question relative to the jurisdiction given by that charter beyond Calcutta and over persons answering to certain descriptions inhabiting the provinces at large, is, as applied to this case, merely speculative: For it was not in the exercise of that jurisdiction that Nundcomar was tried. But to vindicate myself from the imputation of having not only unadvisedly but knowingly presumed to take on me a criminal jurisdiction under a charter clearly illegal; and as it is urged particularly against me as "being privy to and employed in framing the charter after I knew of my appointment;" and that powers were by my desire "illegally inserted," and were "conferred on myself by myself," I shall submit to the House the following facts and observations: they will also serve as an answer to the same objections repeated in other Articles.

The original draught of this charter was perused by the present Lord Chancellor, then Attorney-general; received alterations from lord Loughborough, then Solicitor-General; was revised by lord Walsingham, then Chief Justice of the Common-pleas; and by earl Bathurst, then Lord Chancellor. That I attended all those noble lords on the occasion, more particularly the present Lord Chancellor, and had the advantage of hearing their several reasonings on the subject; that I have at present in my possession all their rough draughts, with their several observations, and the reports of the then Attorney and Solicitor-general in their own respective hand-writings; that from thence I did acquire, and have declared that I did acquire, a more intimate knowledge of the intention of the drawers of that charter; is most undoubtedly true: But as I cannot without presumption attempt it, I must refrain from vindicating myself from the charge of having advised illegal powers to be inserted in the charter, or conferred them on myself. The very attempt to justify myself would be an insult on the integrity and wisdom of the noble lords that drew the charter; and it would be the utmost arrogance in me to conceive that it can by any possibility be believed that they could have been imposed on by or borne such advice from me.

It might perhaps not have been deemed an act so rash as to incur an impeachment, if I had accepted and executed my office solely under the impression of these great authorities.

But I then understood, and now contend, that the legality of the jurisdiction of the Supreme Court (except as to some

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special regulations ordained by that act), does not depend on any authority conveyed to his Majesty by the 13 Geo. 3, and that it is no otherwise, as to the present question, an enabling statute, than by removing the then existing courts in Calcutta, during the continuance of which, under the charter of Geo. 2, his Majesty could not create any new court; but they being actually thereby abolished, it became lawful for his Majesty to grant a new charter of justice, and republish his laws in that town as his predecessors had done: And as the territorial acquisitions of Bengal, Bahar, and Orissa, really were, and were by act of Parliament stated to be, in the East India Company; and more particularly as the Act of the 13 Geo. 3, assumed a civil jurisdiction over certain inhabitants of those provinces described by that Act: the legislature had thereby recognized those provinces to be part of the dominions of the Crown; and the King in fact has done no more than exercise his undoubted prerogative through those dominions, by giving a criminal jurisdiction over the persons answering to the same descriptions as those over whom the statute had before exercised a civil jurisdiction. If it was not contrary to justice that the parliament should assume a right of civil jurisdiction, it could not be contrary to justice in the Crown to grant a co-extensive criminal jurisdiction: Both rights are founded on the same claim. On these grounds I contend that his Majesty's prerogative was legally exerted in granting the personal criminal jurisdiction in the provinces at large, without the aid of the act. But with respect to the local jurisdiction in the town of Calcutta, though I equally contend that the authority of the 13 Geo. 3, was not necessary to the legality of it; yet if that had been necessary, it will appear by the words of the charter, compared with the words of the 13 Geo. 3, that it is expressly authorized by that Act.

By 13 Geo. 3, it is enacted, "That the Supreme Court of Judicature at Fort William in Bengal shall be at all times a court of record, and shall be a court of oyer and terminer, and gaol delivery, in and for the town of Calcutta, and factory of Fort William in Bengal, and the limits thereof, and the factories subordinate thereto." The clause in the charter is, "and we do hereby grant, ordain and appoint, that the said Supreme Court of Judicature at Fort William in Bengal shall also be a court of oyer and terminer, and gaol delivery, in and for the town of Calcutta, and factory of Fort William in Bengal aforesaid, and the limits thereof, and the factories subordinate thereunto, and shall have the like power and authority as commissioners or justices of oyer and terminer, and gaol delivery, have or may exercise in that part of Great Britain called England, to inquire by the oaths of good and sufficient men, of all treasons, murders, and other felonies, forgeries, perjuries, trespasses, and other crimes and misdemeanors, heretofore had, done, or committed, or which shall hereafter be had, done, or committed within the said town or factory, and the limits aforesaid, and the factories subordinate thereto."

I said, that whether the personal jurisdiction over the inhabitants at large was legal or not, was in this case merely speculative: I might add, that as far as the practice of the court had gone when I left India, it was speculative as to every case. After the alarms taken at, and propagated from, the India House, and the general apprehension in England from the injustice and confusion consequent to the supposed introduction of the criminal laws of England over the nations of India, I fear I shall scarcely gain credit when I assert, that those laws have not been put in practice against any of the inhabitants of the provinces; yet I do most positively aver, that from the establishment of the court, till I left Bengal in December 1783, there had been no indictment tried against any person who was not an inhabitant of Calcutta, nor for crimes not committed in Calcutta.

I shall first endeavour to clear away the third objection, which impeaches the legality of trying Nundcomar as an inhabitant of Calcutta; for it is true, as stated in the Article, that he was held to be subject to the jurisdiction of the Supreme Court as an inhabitant of the town of Calcutta, I admit there was no other "pretence of jurisdiction," and on this fact, rightly understood, I rest the whole gist of what I shall offer in support of the legality of the proceedings, and the propriety and justice of the charter and act of parliament which introduced the English laws into that town. I therefore earnestly request the particular attention of the House to this most material point, and that it will distinguish this case from what it is not, by keeping in mind what it is; that it is not the case of a native inhabitant

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of the provinces at large, tried by an unknown new English law, imposed on foreign nations and provinces, but the case of a person tried by the ancient municipal laws of Calcutta, an English town, with which law he was well acquainted, and of which town he was a settled inhabitant.

There are but two classes of people, except British subjects, over whom the criminal jurisdiction of the court extends. These are inhabitants of the provinces at large as described in the act, and the inhabitants of the town of Calcutta, who indeed are British subjects. It will therefore be necessary for the understanding of this Article, and the propriety of the use of the English law, to consider the political state of the inhabitants of Calcutta, as distinguished from the political state of the inhabitants of the province at large before 13 Geo. 3, and the operation of the charter on each state.

The inhabitants of the provinces at large constitute a nation of immense population, extending over a vast region, governed by their ancient laws, having courts of justice administering those laws, enjoying no benefits from, not desiring and totally ignorant of, the laws of England; the Parliament of Great Britain had enacted no laws to which it required their obedience; the King had not exercised his prerogative over them by establishing his courts of justice, or introducing his laws; their subjection to his laws must have been compulsory; if they disliked his laws, they could not have escaped from them but by quitting the provinces entirely.

The state of the inhabitants of Calcutta, was in every particular different they were, as compared to the inhabitants of the provinces, a very inconsiderable number, inhabiting a very narrow district, and that district an English town and settlement, not governed by their own laws, but by those of England, long since there established; where there were no courts of criminal justice but those of the King of England, which administered his laws to the extent, and in the form and manner in which they are administered in England: the inhabitants had resorted to the English flag, and enjoyed the protection of the English law; they chose those laws in preference to their own; they were become accustomed to them; the town was part of the dominion of the crown by unequivocal right; originally by cession founded on compact, afterwards by capture and conquest. Their submission was voluntary; and if they disliked the laws, they had only to cross a ditch, and were no longer subject to them. The state of an inhabitant in the provinces at large, was that of a man inhabiting his own country, subject to its own laws; the state of an Hindoo, a native of the provinces, inhabiting Calcutta, which in effect was an English town to all intents and purposes, did not differ from that of any other foreigner, from whatsoever country he might have migrated; he partook of the protection of the laws, and in return owed them obedience.

The distance or proximity of the country where a foreign inhabitant is born, cannot make him more or less subject to the laws of the English town which he inhabits: an Hindoo inhabitant of Calcutta was as much amenable to the English law in Calcutta, as if the same Hindoo had been an inhabitant of London. He might with equal propriety object to being tried by any law but that of his native country at the Old Bailey as at the Court-house in Calcutta. Gibraltar in the kingdom of Spain is, Calais in that of France was, part of the dominion of this realm: admitting the laws of England to have been introduced into those towns, as I will prove them to have been introduced into Calcutta, a French inhabitant of Calais, or a Spanish inhabitant of Gibraltar, having offended against the law under which he dwelt, might with equal reason complain that he was not tried by the law of the place of his nativity, as an Hindoo in Calcutta, because that town is situated in Bengal.

There is nothing in the quality of an Hindoo that makes the law of the country wherein he was born more attached to him than to a Frenchman or Spaniard: all must be obedient to the law that protects them.

It was not till since the seat of government and the collection of the revenues have been brought to Calcutta, that it has become populous by the influx of black inhabitants; the laws have not been obtruded on them, they have come to the laws of England.

The charter has given a criminal jurisdiction not local and territorial over the provinces, but personal over part of the inhabitants answering to certain descriptions; but the jurisdiction given over the inhabitants of Calcutta is universal, that being a territorial jurisdiction through the

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whole town of Calcutta. The first, as to the provinces at large, is new, and was introduced by that charter; all the laws of England established by that charter I admit to be new as to them, and only to be supported by the authority of that charter; but with regard to the town of Calcutta, the operation of the statute was different. Long before the erecting of the Supreme Court in 1774, there had existed in Calcutta courts in the nature of Oyer and Terminer and gaol delivery, administering the criminal laws of England with a territorial jurisdiction over Calcutta. The 13 Geo. 3, abolished those courts to make room for the Supreme Court; it gave to the Supreme Court the power of trying the same crimes with a territorial jurisdiction co-extensive only with that of the old courts. The 7th report of the Secret Committee states the jurisdiction given by the charter of 26 Geo. 2, in Calcutta thus: "And the said charter further grants and ordains the governor and council to be justices of the peace, and have power to act as such, and to hold quarter sessions of the peace; and also to be commissioners of Oyer and Terminer and general gaol delivery, for trying and punishing all offences (high treason only excepted) committed within the said town or factory, or its subordinate factories; to proceed by indictment, or such other way as is used in that part of Great Britain called England, as near as the circumstances of the place and inhabitants will allow." The Committee likewise received this evidence on the same subject: "Mr. Russel, who also resided several years in Bengal, observed to your Committee that, though the mayor's court cannot exercise jurisdiction over natives, unless by consent, the jurisdiction of Oyer and Terminer extends to natives as well as Europeans." All that was new in the power of the Supreme Court was, that it might try the crime of high treason, the court being now held by the King's judges, and that crime not having been submitted to a trial under judges nominated by the Company. The statute and charter, with regard to the town of Calcutta, and the present crime, introduced no new jurisdiction, or new law, but barely placed four judges nominated by the King on that tribunal, on which the president and council nominated by the Company had before sat. The 2 Geo. 2, c. 25, having been in force before, was an old law continued, not a new one introduced: that this is not an opinion made up for this defence, but the original opinion on which I acted at first setting out, will appear by notes which I have in my hand of the charge that I gave to the first grand jury, by which I pointed out the distinction between the two jurisdictions, and by the answer which I gave to the Address of the Hindoo inhabitants of Calcutta: this I undertake to prove to be true by law, fact, and practice.

As to the first introduction of the laws of England, I take it to be a position not to be denied, that on a new accession of dominion to the crown of these realms, the laws used before such accession are in force till the Crown of Great Britain shall provide otherwise; but that it is the undoubted prerogative of his Majesty, by his own authority, without the aid of Parliament, to erect courts of justice by his charter, and establish the laws of England in his new dominion; and that, on the surrender or other determination of the King's charter, he may again grant a new charter, and may again re-establish his laws.

I esteem it a position equally undeniable, that when the King shall have so introduced his laws, all such laws as were in force in the realm of England at the time when the laws were so introduced, are *ipso facto* the laws of the new dominion, though laws made subsequent may not extend to that new dominion, except it be expressly mentioned in those laws that they shall. That his Majesty King George 1, in the 14th year of his reign, granted a charter of justice for the town of Calcutta, and thereby introduced the English law; and that on the surrender of that charter, the same was done by his late Majesty King George 2, in the 26th year of his reign, has been proved before the committees of this House: it is a legal consequence, that all the criminal laws in force in England at that period thereby became the laws of the town of Calcutta. The 2 Geo. 2, the year in which this statute was passed, being prior to the 26th of his reign, when the charter was granted, this statute was there established by that charter.

But this is not to be deduced from legal consequence only; before I sat on the criminal side of the court, I was not satisfied with mere argument, I inquired into the fact. The 13 Geo. 3, having required the records of the old court to be delivered over to the supreme court, I searched

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them, and found what was true in argument had been supported by practice.

I found that the laws of England, statute and common, had been indiscriminately put in force; murders, highway robberies, burglaries, felonies of all kinds, had been tried in the same manner as at the Old Bailey, or Assizes in England, and convictions and executions had on them, as well against Portuguese, Hindoo, Mussulmauns, and other foreign inhabitants of the town, as against those who are more especially called British subjects.

Copies of these records are, as I understand, at the India House, and must be full of such trials. But here I must observe, that after the most diligent search into the records of the former criminal court, I could not discover any record or proceedings prior to the charter of 26 Geo. 2, nor till some years subsequent to it. The convictions and executions had increased in the three last years next preceding the establishment of the present court.

By those records I was not only furnished with precedents of what had been done by the former court, but likewise what was the recent sense of the East India Company at the time the charter of the 26 Geo. 2 was granted. This I considered (knowing the very able legal assistance that great body always avails itself of) to be a true contemporary exposition of the charter, expressive of the true intent of the Crown at the time of granting it; for among the records I found the instructions sent out by the Court of Directors with that charter, and expecting, as I really procured, great information from them, ordered them to be copied. These instructions direct the new court how to proceed against prisoners not understanding English, tells what crimes are misdemeanors, what simple felonies, what within clergy, what capital, and all the distinctions on that head; what punishments are to be inflicted, amongst which transportation is particularized; how to proceed in each case; and gives precedents of indictments for each crime, the oath for an interpreter when the prisoner does not understand English, directions how to proceed when any Portuguese, Gentoo, or native of India, not born of British parents, happens to be prosecuted for any capital offence, which the instructions say, "will probably often happen;" they are told that stealing goods above the value of forty-shillings out of a dwelling-house, above five shillings privately out of a shop, ware-house, coach-house, or stable, and from the person above five shillings, is capital; they are told that the jury may mitigate the sum, so as to make the offence clergyable; and the clerk of the peace is directed to mark the judgment, so mitigated, to distinguish them. They give precedents of indictments for all these crimes, and add indictments for burglaries, highway robberies, and horse-stealing, as cases, "likely to happen."

In a marginal note they are told, in cases where any Act of Parliament makes a crime felony, which was not so at common law, the indictment must conclude, against the form of the statute; they are directed to "enlarge on his Majesty's princely goodness, who, on the humble application of the honourable Company, has thought fit to extend his care and the benefit of his laws to his most distant subjects in the British settlements in the East Indies." This the Directors desire "may be done the first time the commission is put into execution."

After this charter, after these instructions, after this practice, ever since the 26 Geo. 2, it cannot surely be contended that the laws of England were first introduced into Calcutta by the charter which erected the supreme court, or that an inhabitant of Calcutta, though a native of India, was triable in Calcutta, by the laws of his native country, for offences committed in Calcutta. The benefits of these laws had been held out to them as a favour to which they had subscribed by continuing under them, and by the great increase of inhabitants since their promulgation.

On these legal conclusions and precedents the supreme court might have been justified in trying the criminal as an inhabitant of Calcutta, on 2 Geo. 2, c. 25, for an offence committed in Calcutta; but before I proceeded to the trial, I made a still more particular search, and found this specific statute had been acted on, and most completely published to all the inhabitants of Calcutta, and to the Hindoos more especially, as the law of the settlement; for I found that in 1765, one Radachurn Metre, a Hindoo, had been tried, convicted, and received sentence of death by the former court, on the 2 Geo. 2, c. 25, for the forgery of the codicil of a will of one Cojah Solomon, an Armenian: pursuing this inquiry, I

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found that the native Hindoo inhabitants of Calcutta had petitioned the president and council for his respite, not pretending that they were not subject to the laws of Calcutta; but chiefly on this ground, that till that trial neither they nor the prisoner understood the crime to be punishable by death, it not being so by the country laws. Their petition is solely for mercy in that instance, without any complaint of the law, or desire that it should not in future be executed. In consequence of this application, the president and council resolved to recommend the prisoner to mercy in these remarkable expressions: "In hopes that the condemnation will be sufficient to deter others from committing the like offence." It appeared by the Records, that the East India Company had sent his Majesty's pardon: all my diligence could not furnish me with any comment made on this proceeding; and finding no censure passed upon it by the Court of Directors or the King's ministers, to whom the case must have been submitteed to obtain the pardon, and that the whole passed in the ordinary course of business, and accorded with all the other proceedings of the Court, I esteemed it a full precedent, more especially as there had been a plain intimation from the governor and council, if the condemnation should not be sufficient to deter the natives from the commission of forgery, that the law would be enforced in future: That it had not been sufficient, was evident from the present case.

Knowing the effect of the representations that had been made in England, and seeing the letter of the Court of Directors to lord Weymouth in 1777, in the general Appendix to the Report of the Committee, to which the petition of Touchett and others was referred, by which they express great alarm on account of the trial and execution of Nundcomar, and urge the case of Radachurn Metre as a reason against it, which I had esteemed in point for it, struck with consternation lest I should have drawn false conclusions, I inquired at the East India-house, with fear and trembling, for the letter which transmitted the pardon to India, expecting to find that the Court of Directors had reprobated the proceedings against Radachurn Metre, and had directed, by authority from England, that statute not to be enforced in future; but my mind was eased when I found the acting on the 2 Geo. 2, c. 25, had met with the full approbation of the Court of Directors, by their general letter to Bengal of the 19th Feb. 1766, which is as follows:

Par. 100. "In consequence of your request, in the first paragraph of the supplement of your letter, dated 11th March, 1765, we have obtained, and herewith send you, an attested copy of his Majesty's free pardon for Radachurn Metre.

Par. 101. "Upon the proceedings transmitted to us of the general quarter sessions, when the convict was tried, we are to observe to you, that he is indicted for feloniously presenting the forged codicil, which is not the offence mentioned in the statute; and therefore, we must suppose this to be a mistake in the copy, and that the indictment preferred was for feloniously publishing the said forged codicil as a true one. This codicil, and also all forged wills and deeds upon which capital indictments are preferred, should be literally set forth, and the indictment would have been quashed in our courts here for want of form. In the present case we find no where amongst the proceedings, or in your packet, a copy of the forged codicil; and we observe too, that one of the subscribing witnesses to it positively swears, that Cojah Solomon desired him to attest this codicil; certainly the jury were the best judges of the weight that ought to be given to this man's testimony; but upon the evidence appearing on the face of these proceedings, without a knowledge of the credibility and character of the witnesses, there appears but slender legal evidence to ground a conviction of the prisoner upon; and we are glad you have interfered in his behalf."

They are indeed glad that the President and Council interfered, not for the reasons assigned by them, not because they disapproved of putting the statute against forgery into execution, but because the evidence was weak and the indictment faulty; to remedy which last defect, and that the law might be effective in future, they teach the president and council how indictments should hereafter be drawn, and in fact supply the deficiency of their former instructions, by adding to them new instructions for their proceedings on this statute against forgery.

This law therefore, and this law only, being in force against forgery committed by an inhabitant of Calcutta, and Nundcomar having been "made amenable only as an inhabitant of Calcutta," it becomes

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unnecessary for me to enter into the question, whether the indictment could have been supported if he had been prosecuted as a native or an inhabitant of the provinces at large. * [As to his being brought to Calcutta by force, and there detained as a prisoner, by order of the President and Council, at the time of the commission of the crime, as is alleged in the article, I deny the truth of the fact; and those gentlemen who were members of the Council when Nundcomar was tried, and are now members of this House, must well know the fact is not true. Had it been true, yet before it could be matter of objection to the judgment, it must be shown it was in evidence at the trial; it then would have been made part, and a material part of his defence; it would have been decisive in his favour: but the contrary was in proof; he was proved to be a settled inhabitant of Calcutta; no such objection was ever suggested, nor was any attempt made to take him out of the jurisdiction of the court as not being an inhabitant of the town. It was indeed in evidence, that at one time but not at the time of committing the offence, Mr. Palk, a civil magistrate in Calcutta, having no jurisdiction beyond Calcutta, had put him under confinement. This of itself is rather evidence of his inhabitancy, not proof against it; there is nothing else in the trial that has any allusion to his being under any restraint. Such a fact never came to my knowledge; the first I heard of it was by the allegation in this Article, and it is most extraordinary to me, on what evidence, or on what suggestion, it found a place there. I have inquired of every person I have met with, who was resident in Calcutta at the time the crime was supposed to have been committed, and at the time of the trial, Whether the fact was true, or the report of such a fact had ever prevailed?—and have been uniformly answered in the negative; nor am I able to trace it to a better authority than that of a libellous letter, in a book entitled, "Travels in Europe, Asia, and Africa, &c." published in 1782, in which are these words, "It was their will and pleasure to seize the person of the minister of Nundcomar," ['of' is redundant] "to conduct him to Calcutta, and to detain him a prisoner under a military guard until the arrival of the Supreme Council, in October 1774." The author from his known connexion, might have received more true information. It is observable, that every libel published on this subject, as in this case, and that published by Debrett, uniformly endeavours, as the articles do, to advance the character of sir Robert Chambers at the expense of mine.]

The reason I requested the particular attention of the House to distinguish what the present case is from that which it is not, is, that notwithstanding it is charged that Nundcomar was subjected to the jurisdiction merely "as an inhabitant of Calcutta," yet in the face of that clear position there is an error in the nature of a fallacy in argument (which I cannot induce myself to believe could have been purposely made use of in a criminal charge) which runs through the whole of this article, and is the real basis of every objection which goes to the legality of the application of the 2 Geo. 2, c. 25, to the present case, the third only excepted; that fallacy is the confounding the case of Nundcomar an inhabitant of Calcutta, with the case of an inhabitant of the provinces at large; by applying to the case of Nundcomar, as an inhabitant of Calcutta, arguments applicable only to the case of an inhabitant of the provinces at large, and by making no distinction between the local territorial jurisdiction over Calcutta, which was an ancient jurisdiction exercised by the former criminal court, under which jurisdiction the 2 Geo. 2, c. 25, was no new law, and the personal jurisdiction given over certain inhabitants of the provinces at large, which was a new jurisdiction never exercised before, was introductory of new law, and under which only the 2 Geo. 2, c. 25, can be considered as a new law.

The confusion incident to the want of this distinction is farther increased by introducing the captivating word, 'native' instead of the efficient word, 'inhabitant.' The jurisdiction of the court is given in every case over the inhabitant without having any respect to the place of which he is native: If an inhabitant of Calcutta, the ancient territorial jurisdiction attaches on him, be he a native either of France, Spain, or Bengal; if an inhabitant of the provinces at large, answering to certain descriptions, the new personal jurisdiction attaches on him, whether he be a native of Calcutta, of the provinces,

* The part between the [ ] was omitted by sir Elijah Impey the first day he was before the House, but mentioned by him on the second; it is restored to its proper place.

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or of any other country. In fact, captivating as it is, no word can be more immaterial to the present case than the word 'native,' nor can any word be less efficient except it be for the purpose of leading into error and mis-stating of facts.

In the case of an inhabitant of the provinces, every objection may be admitted to have great force; but to the present case they will, when examined, appear to have no application at all; by inserting 'Calcutta' for the words 'provinces and country,' and 'inhabitants of Calcutta' for 'natives,' and for 'native inhabitants of India and the provinces,' the true state of the case will be brought forward, and by the defect of the premises and inconclusiveness of the arguments, the objections will be answered.

I will take the liberty of trying the objections to the legality of the jurisdiction by this criterion.

As to the first and second objections, it is literally true that the 13 Geo. 3, did not by express words, confer, nor authorize his Majesty to confer, on the court any criminal jurisdiction whatsoever, in any case whatsoever, over the native inhabitants of the said provinces: but this allegation is totally irrelevant to the present case. Instead of 'native inhabitants of the provinces,' insert 'inhabitants of the town of Calcutta;' the allegation is not true, for I have already read to the House the clause in the 13 Geo. 3, expressly authorizing a local jurisdiction in Calcutta, for the trial of all crimes committed by all persons inhabiting that town: however it might be with regard to a native inhabitant of the provinces, it cannot be said with truth, that the trial of an inhabitant of Calcutta is "against the authority of Parliament, and contrary to the meaning of the 13 Geo. 3." The third objection is the only one which states the true case, "that the said Nundcomar was made amenable to the court as an inhabitant of Calcutta;" I have before answered this by showing the charge of his inhabitancy being involuntary, not to be true. I defy the production of any proof to give the least appearance of truth to this unfounded assertion.

Fourth objection: I have diligently perused the statute of the 2 Geo. 2, c. 25, and cannot on the strictest examination either of the 'preamble' of that Act or of the 'provisions' in the enacting clauses, discover any expression which can authorize that part of the article which says, the "operation of the Act is clearly by the preamble, by the provisions and whole purview of the Act, strictly confined to the realm of England." The preamble is in these words: "Whereas the wicked, pernicious, and abominable crimes of forgery, perjury, and subornation of perjury, have of late time been so much practised, to the subversion of common truth and justice, and the prejudice of trade and credit, that it is necessary for the more effectual preventing of such enormous offences, to inflict a more exemplary punishment on such offenders than by the laws of this realm can be now done."

If the reasons assigned in this preamble be sufficient to restrain penal statutes to the realm of England only, so that his Majesty cannot introduce them into a newly acquired dominion; it will be found on inspection of the statute-book, that no penal statute could be so extended beyond England: all of them have taken their rise from the state of the community in England. The legislature of England in enacting general criminal laws, has not been speculative but practical; all new laws have taken their rise, whether it be so expressed in their preambles or not, either from the springing up of some new species of offences, or by the frequency of the old, which milder laws have not been sufficient to repress.

If it be said that the mention of the state of trade in this kingdom shows it to be applicable here only, it was well known to all who are or were conversant with business there that the nature of the trade and manner of carrying on the commerce in Calcutta, made this law as applicable there as in England. The trade there, relation being had to the extent of its district and the number of its inhabitants, would not perhaps yield to the trade in England. The preamble does not confine the evil arising from these crimes to their being prejudicial to trade only, but declares them to be subversive of common truth and honesty, which is a universal, not a local principle.

The enacting clause simply mentions the instruments the forgery of which is prohibited, and has nothing in it which can be construed to confine it to England. As to India not being expressed in the Act, this law was passed before the charter of 26 Geo. 2, and was introduced with the other laws of the realm, in force at the time of the promulgation of that charter in Calcutta. This objection if valid, would

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go to all statutes made before the establishing the English laws in Calcutta, and to the King's undoubted prerogative of introducing the English laws in any of his foreign dominions.

It is true that there is a clause in the Act, that it shall not be construed to extend to Scotland; for which many reasons deducible from the Union, from the state of the commerce, and the difference of the criminal municipal laws, of that part of the kingdom, may be assigned, none of which have a tendency to prove that it ought not to have been introduced in Calcutta. It was the law of England, not the law of Scotland, which had been administered by the former court in Calcutta, and which it was become the duty of the Supreme Court to administer. Used as I have been to professional reasoning, it is to my great surprise that I find this objection has appeared so specious as to captivate those who have not been used to law inferences, and have not duly examined the grounds of it: to a lawyer, I think, I may venture to say it can have no weight, for the exception would rather be a proof of the generality of the course of the law in places not excepted: *Exceptio probat regulam.*

The comparison of the distance of Scotland and Calcutta can make no difference. Had there been an exception to a particular town in the centre of England, and the law had been general over the rest of the kingdom; on the promulgation of the King's laws in a new foreign dominion, that law would, as a general law of England, have been introduced with the other general laws. Had the exception in 2 Geo. 2, been to York or Birmingham instead of Scotland, it would not have operated as a reason for not establishing it in Calcutta.

Here again it is said, that 2 Geo. 2, "did not extend to India, and that no indictment thereon against any person whatever, whether English or native, resident in the said provinces, could be legal;" the whole of which is immaterial to the charge. It does not state that which alone would have been material, that 2 Geo. 2 did not extend to Calcutta, nor that an indictment thereon against an Englishman, or native of the provinces, or of any other country on the globe, being a resident inhabitant of Calcutta, was not legal. These are the true facts; but the truth could not be stated: had it been stated, the charge that the indictment was illegal would, on the face of it, have been palpably false.

It is true that forgery was not capital by the laws of the country of which Nundcomar was a native and inhabitant; if by that it is meant he was a native and inhabitant of any part of the provinces at large, without the town of Calcutta; but it is not true that forgery was not capital by the laws of Calcutta, to which place alone the word 'country,' to be applicable to the matter in charge, can be justly referred, he being really an inhabitant of that place.

Granting it to be true, that "it is repugnant to the principles of justice, humanity, and reason, to subject a whole nation to the penalties of a foreign law," under all the circumstances stated in the fourth objection, still that is nothing to this point; for it does not from thence follow, that it is contrary to justice, humanity, and reason, to subject the inhabitants of the town of Calcutta, who are not a whole nation, and the town which is an English town and factory, to English, not to foreign laws, when to those very laws such of the inhabitants as are not British subjects have voluntarily resorted for protection.

This objection being stated so as to make it conformable to the case before the House, by leaving out the word 'native' as totally immaterial, and by substituting the word 'Calcutta,' as it ought to be, for the words 'country,' and 'inhabitants of Calcutta' for the word 'nation,' it will stand thus: that the trial, sentence, and execution was contrary to natural justice, because forgery was not capital by the laws of Calcutta, of which the Mahah Rajah was an inhabitant; that it is contrary to the principles of justice, &c. to subject Calcutta (an English town) to the penalties of a foreign law (meaning English law); the premises are apparently false, and not one of the consequences stated in the objections are deducible from it.

Nundcomar, who was tried, as is charged, as an inhabitant of Calcutta, can with no justice or propriety be considered as an inhabitant of the provinces at large; for an inhabitant of Calcutta stands characteristically distinguished from an inhabitant of the provinces, both by the 13 Geo. 3, and the charter. That the gentleman who drew this article has critically examined both, appears by the acute objections taken to the charter from that

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Act; I am therefore rather surprised so obvious a distinction could have escaped him.

A citizen of London is subject to certain penalties for certain offences cognizable only by the bye-laws of the city:—shall he, when sued as a citizen of London, claim an exemption as a native of the kingdom at large, as being subject only to the general laws of England? As a citizen of London, in that case, he is contra-distinguished from a native of England.

It is not true, as is surmised in the sixth objection, that the proceedings in this cause have introduced the said statute of 2 Geo. 2, "as binding in India" at large; nor does a conviction of an inhabitant of Calcutta on that statute authorize any conclusion that the judgment of the court went on any general ground; "that the whole body of the English penal laws was transplanted without distinction, selection, or modification, into the said provinces, and became binding on the said inhabitants." How that may be on the true construction of the statute and act of parliament, is not necessary to the present discussion. I do again most solemnly declare no such determination had been made by the court whilst I presided in it.

To make this also conformable to the real case, if the same alterations are made as in the last objection, it will stand thus: that the statute of Geo. 2, could be binding in Calcutta only, on the general ground that the whole body of the English penal laws was transplanted into Calcutta, and became binding on its inhabitants, which is admitted; and whatever the case might have been with regard to the supposition as relating to India and the provinces at large, which is the ground of the objection; this will be found, with regard to the fact and as relating to Calcutta, to be expressly supported by the statute and charter, and to be repugnant neither to reason nor justice.

As to the seventh objection, had it been true that Nundcomar had been tried as an inhabitant of the provinces at large, under that part of the charter which gave a new personal jurisdiction, and was in truth introductory of new law, as in that case, that new law would not have been introduced till after the commission of the crime; it would have been in that case an *ex post facto* law, and liable to every imputation flung on *ex post facto* laws, but as it is not true that Nundcomar was tried as an inhabitant of the provinces at large, and under the new jurisdiction, but was in truth tried as an inhabitant of Calcutta, which he really was, the proceedings are no farther justified under the charter than as it gave the same jurisdiction to the judges in the town of Calcutta, which was exercised by the President and Council under the charter of 26 Geo. 2, and as the law had been introduced by the charter of 26 Geo. 2 not by that of the 13 Geo. 3, which only continued it, the charter of 26 Geo. 2, being granted in 1753, and therefore long prior to the commission of the crime, which is alleged to be in 1770, though in the supposed case it was an *ex post facto* law, yet in the actual case it can with no colour be called an *ex post facto* law, but was a law not only established by royal charter in Calcutta, long before the erection of the Supreme Court, but had actually been put in execution, and was well known to all Hindoos there, long before the commission of the crime for which Nundcomar suffered, though he is stated to have been executed on an *ex post facto* law. This is not new to the House; for though it is thus charged, the whole I have now laid before the House to prove it not an *ex post facto* law, appears in the report of the committee to which Touchett's petition was referred by the letter of the Court of Directors to lord Weymouth, which forms No. 3, in the appendix to that report: to refute this very serious objection, nothing is necessary but the very report of that committee, which is held out to be one principal ground to support the charges against me.

I esteem that part of the charge which alleges the causing Nundcomar to be convicted on false and insufficient evidence, as introduced more for the purpose of impeaching my conduct than the validity of the verdict; and as it will be necessary for me to appeal to the evidence, when that accusation is directed to particular facts, charged as aggravations on this head, I should trespass on the time of the House too long, if, on this general charge, I were to observe on all the evidence given on that long trial; I must therefore rest on the candour of the House, that before they assent to the truth of this proposition, they will peruse the whole trial, and judge whether the objection be really founded on fact.

"As to having been executed in a manner shocking to the religious opinions of all the Gentoo inhabitants within the said provinces," the effect of it in Cal-

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cultta, not beyond it, is solely material. If the laws of England were, as I have shown them to be, in full force in the town of Calcutta, they could only be executed in the manner directed by those laws. The sentence for felony is, that the convict be hung by the neck until he his dead. No discretion is left in the judge to vary the mode; and to do it, is by our law books, treated as criminal in the highest degree. Some go so far (though certainly too far) as to say that it is not in the power of the King himself; that he may indeed pardon part of the sentence (as in high treason all but beheading), but that he cannot order execution to be done in a manner variant from the sentence.

That Hindoos of all casts, Brahmins included, had been thus executed, I had the most authentic information before this convict suffered; for though the cast of the Brahmins is high, the individuals are frequently of the meanest of the people. I was particularly informed by a gentleman formerly a member of the council in Bengal, and now of this House, who has this day repeated to me the same information, that he had himself carried such sentence into execution against two Brahmins, without any disturbance, and even with the consent of the Hindoos themselves. The prosecutor who sued for the execution in this case was an Hindoo; many of the witnesses were Hindoos; what the sentence must be was well known to the prisoner, the prosecutor, and all the Hindoos in the settlement; yet no objection was made by the prisoner or his counsel before or after the sentence was pronounced, to the mode by which he was to suffer death; no evidence was given of its "being shocking to the religious opinions of the Hindoos;" no mention of it is made in the address of the Hindoos. No petition for mercy, though it might object to the punishing a Brahmin by death, is asserted to have made any distinction between the modes of suffering death, or that the hanging by the neck was more shocking to their religious principles than if the execution had been by the sword. It was from the report of the committee to whom Touchett's petition was referred that I was first informed of such distinction.

It is urged against me as a criminal inconsistence of conduct, "that I had on other occasions expressed my opinion on the inconvenience and mischief of inflicting the same punishments which are inflicted in England for the like offences:" and it is added, "that my practice, and that of the Supreme Court, has accordingly been to depart, in various instances, from the letter of English law, and to modify it according to their discretion, in such manner as appeared in these instances to render it more applicable to the circumstances of the said provinces, and of the inhabitants thereof; and I did therefore deem it competent for me to depart from the rigour of penal statutes, and was not bound, according to my own principles and practice, to adhere to it more in this than in other cases."

From the manner in which this is stated, the House might be led to believe, that I had expressed my opinion with regard to punishments under penal statutes in some judicial proceedings; and that the court had adopted that opinion, and had inflicted punishments, different from those ordained by the English laws; than which nothing can be farther from the truth. The other occasions will be found to be resolved into one. On one occasion, and one only, I did express myself in the very words of the article; but that was in no matter which was in judgment, nor in court; it was in letter to lord Weymouth of 25th March 1775, written in consequence of directions which I had received before I left England, to correspond with the Secretary of State, and to point out such matters as might be useful in the administration of justice; the letter is before the House: this is the paragraph from which the words set out, are extracted; when the contents are shown, it will appear with what candour, and with what application to the execution in the present instance. These are the words: "The court has already found great inconvenience in being obliged to inflict upon offenders the same punishments which are inflicted in England for the same offences. I hope I shall not incur your lordships censure (though I know it would be a very unpopular proposition in England), the subjects here on which the law is to operate being so different from what they are in England, if I submit to your lordship's consideration, the propriety of allowing the Supreme Court a discretionary power of condemning an offender convicted of a crime not capital, to such punishment as he shall think his crime shall deserve. Transportation, from the nature of it, is a sentence which in this

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country cannot be put in execution. Imprisonment to the inferior indolent Indian is no punishment; give him a space to lay upon, rice and water, it is a reward. Fines are very unequal punishments: the poor cannot pay them; and if the person condemned is not of a cast or rank to which imprisonment would bring disgrace, the richest here would not pay the smallest fine to avoid it. Condemnation to the public roads and works is a punishment commonly inflicted by the ancient and modern laws of this country, which would take off the objection which is made to inflicting the same punishment in England."

This will be found expressly to except capital punishments; it specifies the punishments which have been found difficult and inconvenient to be put in execution, and assigns the reasons. No such difficulty had arisen with regard to capital punishments. It was not known to the court that the English mode of execution in capital cases was objectionable; nor have I any reason now to believe, however it may be in other parts of India, that suffering death by hanging is in Bengal more shocking to the religion of the Hindoos than the suffering of death by the sword.

Though this representation was made under an idea that the alterations proposed might be conducive to justice, neither I, nor any of the judges, would have thought ourselves justified in assuming any discretionary powers of varying the sentence and execution under any criminal law, much less in capital cases. Notwithstanding the positive assertion in the article, I defy the production of any proof whatever that it has been, in respect to any criminal sentence (to which this observation only can apply), "my practice, or that of the Supreme Court, to depart in any instance whatever from the letter of English law, and to modify it according to our discretion" for any purpose whatever, or that I ever "did deem it competent for me to depart from the rigour of such penal statutes" as have been the ground of any judgment of the court.

Those were not my principles and practice; I adhered to the law. I should have held myself criminal if Nundcomar had been executed by the sword; nor could I have answered in this place, or elsewhere, for having inflicted any other punishment on him than by hanging.

Having proved that 2 Geo. 2, could be legally carried into execution, I come next to consider the particular circumstances which ought to have exempted this case from it, and which are urged as aggravations of the offence of enforcing it. To prove that the prosecution was not carried on for the purpose of justice, but to protect Mr. Hastings from the consequence of charges against him, it is alleged that a prosecution for "a conspiracy was commenced against Nundcomar to defeat his accusation," and that "before any indictment found for the conspiracy, he was indicted for the forgery."

No proof whatever was attempted to be given, nor was it ever surmised at the trial, that the prosecution for the conspiracy was commenced for that purpose. Two indictments for conspiracies were found against him and others at the same sessions in which the indictment for forgery was preferred. Whether those for the conspiracies or that for the forgery had the precedence, I never knew, nor can I conceive it to be material.

No order was made as to the priority of the trials; the indictments came on for trial in the usual order. Felonies are in general tried before misdemeanors: but it is the universal practice at every sessions which I have attended, either in England or Bengal, when an indictment for felony, and another for a misdemeanor, is found against the same person, to try him for felony first, because, if found guilty of that, it would be unnecessary to put him to answer for the lesser offence. The court would not have tried the indictments for the conspiracies, except for the purpose of convicting the other defendants who were joined in the same indictments. There was nothing on the face of the proceedings to connect the conspiracy at the prosecution of Mr. Hastings and others, with the prosecution for forgery at the suit of Mohunpersaud; nor was it even suggested by the counsel or the prisoner, that there was any connexion between them. The court had not then, nor have I now, any grounds for a suspicion of the kind; no connexion being shown, or even hinted at, in the trial. What new ground is there for the positive assertion made in the charge, that the prosecutions for the conspiracy were instituted to defeat the accusation brought by the prisoner?

Inferences to support the same assertion are drawn from these circumstances: "That the forgery had been committed five years before;" "that it had been,

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and was at the time of the commencement of the prosecution, the subject of a civil suit in the Dewanny Adaulut, a country court of justice, and that no steps had ever been taken to make the same a matter of criminal prosecution, much less of a capital indictment, until he (Nundcomar) had become the accuser of the Governor-general." That the prisoner had been under the especial protection of Mr. Hastings, from the time of the commission of the crime to the establishment of the Supreme Court, is in evidence before the House, from the minutes of general Clavering and colonel Monson; and Mr. Francis, of the 15th of September, 1775, which are in the appendix to the report of the committee, to which the petition of Touchett and others was referred, in these words: "It ought to be made known to the English nation (this is said in a secret minute), that the forgery of which the Rajah was accused must have been committed several years; that in the interim he had been protected and employed by Mr. Hastings;" that he was under his protection, and that, by order of the East India Company, is farther proved, by the positive oath of Mr. Hastings himself in his evidence given on the trial of an indictment against Joseph Fowke and others.

It was in evidence at the trial, that Mr. Palk, judge of the Adaulut, had confined him. It was notorious that Mr. Hastings had ordered him to be released: this of itself was sufficient to prevent any native inhabitant of Calcutta from commencing a prosecution against him, for there was then no other criminal court to resort to but that in which Mr. Hastings presided. It was in evidence also, that the prosecutor had it not in his power to commence a criminal suit, even in the court in which Mr. Hastings presided, or in any other court, before the time at which the indictment was actually preferred; for the forged instrument was deposited in the mayor's court, and could not be procured from thence: It was not restored to the party entitled to it till after the records and papers of the mayor's court had been delivered over to the Supreme Court. One main cause assigned for erecting the Supreme Court, was, that the Company's servants either presided in, or could influence, the other courts. The Supreme Court, the only court where Mr. Hastings's influence could not extend, sat for the first time towards the end of October, 1774. In June, 1775, at the first effective court of oyer and terminer and gaol delivery held by that Court, the indictment was preferred and tried. That the endeavouring to procure the papers from the mayor's court was intended as "a step taken" towards a criminal prosecution, before Nundcomar became the accuser of Mr. Hastings, I have no evidence to prove; but that no effectual steps could have been taken I have given satisfactory proof. As there had been no delay in the prosecution, as the point of time when the prosecution was brought, was the first possible point of time when it could be brought, no presumption whatsoever could arise from lapse of time, or the coincidence of the prosecution of Mohunpersaud, with the accusation before the council, or from the unavoidable accident of the prosecution not having been commenced until he had become the accuser of Mr. Hastings. That the accusation was the cause of the prosecution of Nundcomar by another person; that it had been the subject of a civil suit in the Dewanny court, there was no legal evidence; the proceedings themselves, or authenticated copies, ought to have been shown; parole testimony was not admissible. It did not lay on the prosecutor to produce them. Had they tended to the defence of the prisoner, he should have produced them: his not doing it, at least induced a strong suspicion that they would not have made for him: that suspicion was strengthened by the evidence given that he had been imprisoned by Mr. Palk, the judge of the court in which the proceedings were supposed to have been had. The matter therefore having been in a civil court, as he made it no part of his defence, but chose to keep back the evidence, furnishing a fair presumption against him, it could not with justice have been applied by the court to fling an imputation on the prosecution, nor did it give any appearance that the prosecution bore any relation to the accusation against Mr. Hastings.

From premises thus laid down, it is affirmed that Nundcomar "was an object of especial protection from the circumstances in which he stood:" "That it was my bounden and sacred duty, as chief justice, to afford protection, so far as it might come within the limits of my function and office so to do." What is meant by the nature of the protection to be afforded, and what is asserted to be within

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the legal limits of the functions of my office, is clearly defined by the next paragraph: by that, I am in express words charged with a breach of duty, because "I entertained the said prosecution, and did permit the said capital indictment to be tried by a jury of British subjects."

Allowing it to have been within my power (which it certainly was not) to have quashed the indictment, dismissed the prosecution, and stopped its being tried by a jury:—was it my duty so to have done? That it formed any part of my duty, I do most strenuously deny. It was the duty of the court to have no knowledge but from what appeared in court. It was the duty of the court to be passive, not active; to admit all suits legally instituted, not to repel or invite them. On the contrary, had I followed the conduct prescribed by the charge—had I rejected the indictment, I should have been guilty of a breach of duty: The 2 Geo. 2, was in force in Calcutta; the prosecutor had a right to demand redress under it: to have refused it, would have been a denial of justice. Had I taken so decided a part as to have flung out the indictment on the ground of the prisoner having been the accuser of Mr. Hastings, how could I have justified the casting that imputation on the prosecution, without any evidence being laid before the court that any accusation existed? Had there been evidence of an accusation, with what justice to the community at large could the court have adjudged that to be a sufficient cause for not putting the prisoner on his trial? If such indemnities were held forth to informers, what man would have been safe in his property, liberty, fame, or life? What kind of informers were likely to be brought forwards? Those who by their crimes were subjected to the laws, and had been thereby taught, that by simply preferring accusations they would be protected from the justice of the laws.

The charge indeed sets forth, "that Nundcomar had publicly accused Mr. Hastings of various peculations and other corrupt practices in his office before the Council-general, a majority of which received the same, and instituted an examination and inquiry into the truth thereof; that the accusations were in writing, and specified with great minuteness the particular charges, and all circumstances relating thereto, and were not contradicted by the said Warren Hastings, who, instead of confronting his accuser, challenging inquiry, or refuting the charges, thought proper, under pretence of his dignity, to decline all defence, and to dissolve, in an arbitrary and illegal manner, the said council-general at various times, when met to inquire into the said charges; and did otherwise by every means in his power, whether legal or otherwise, oppose and resist the examination of the said charges, affording thereby strong confirmation of the truth thereof, and manifesting strong apprehensions of the consequence, with which the said accusation would threaten him, if inquired into or suffered to proceed."

As this is so minutely and circumstantially detailed in the article, it will be supposed to have been before the court, or at least to have been within my knowledge. How otherwise can it affect me? But the circumstances were not only not in evidence, but were in truth not known to me nor the other judges. By rumour, and by rumour only, it was known that Nundcomar had preferred some accusations against Mr. Hastings for corruption in his office; the accusations, which are said to have been publicly brought, were preferred to the council in their private department, where each member was under an oath of secresy: If the prisoner was an object of the special protection of the Court, "from the circumstances in which he stood as an accuser," that claim should have been laid before the court in evidence, and formed part of the defence; the particulars of the accusations, the opinion of the majority of the council of their truth, the proceedings on them, the conduct of Mr. Hastings, the grounds on which the majority thought the accusations could be maintained, were all matters capable of easy proof; they were proper subjects to go to a jury: they certainly would have been given in evidence had it been true, as is averred, "that they were such as could leave no doubt in the mind and opinion of any person acquainted therewith, that the prosecution was set on foot with a view to defeat the accusation against Mr. Hastings." Why was the evidence kept back? Why were not the court and jury acquainted therewith? If they could leave no doubt in the mind and opinion of the jury, the jury could not have hesitated to acquit the prisoner. If the judges must have been convinced, it would have been their duty to have directed the acquittal: this was the only

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mode by which protection could have been legally given to him: they were not thought sufficient to produce that conviction when the transactions were recent; if they had been, they would have formed a material part of the defence. Why then is it averred they must produce such conviction, now at the distance of thirteen years from these transactions? To the whole proceedings it is objected as fatal, and an aggravation, "in a high degree, that sir Robert Chambers, a person deeply skilled and learned in the laws of England, did make a motion from the bench for quashing the indictment on the ground of its illegality, as founded on the 2 Geo. 2, c. 25, which had not the force of a law in India, and was not binding on the inhabitants of the said provinces; that he gave his reasons, and that I over-ruled them."

Had the proposition of sir Robert Chambers been made on those grounds, I hope I have stated sufficient reasons for my not adopting them: for the case before us was not that of all India, nor of the inhabitants of the provinces at large, but of Calcutta; and of an inhabitant of Calcutta, for an offence committed in Calcutta; had his reasons been such as were made for him, they would not have applied: but he knew we were trying an inhabitant of Calcutta, and did not make so nugatory an objection. The supposed motion is fashioned for the purpose of tallying with the grounds of the article.

Though I subscribe to the character of that learned judge, and though in all matters in which I was not bound by oath to exercise my own judgment, I should most willingly submit to his authority; yet in the case then judicially before me, I thought it my duty to consider his reasons before I acquiesced in his proposal. It is true, he did propose that the indictment should be quashed; but this he did more *in favorem vitæ*, and from the natural lenity of his disposition, than from any sound reason in law. He wished to have him tried on a statute that did not inflict a capital punishment. I have my notes with me, which being written at the time, carry the strongest internal marks of authenticity, and are open to the inspection of any member of the House. By them it appears, that sir Robert Chambers proposed that an indictment should be framed on the 5th of Elizabeth, thinking it optional in the court to adopt that statute, instead of 2 Geo. 2, c. 25. It was a proposition, I speak positively for myself, that I should, and I believe the other judges would, have been glad to have concurred in, if the court could have proceeded on that statute. By his proposing to enforce the statute of the 5 Elizabeth, he clearly affirmed the doctrine, that the statute law of England with regard to forgery was then the law of Calcutta. He did not suggest a reason, nor have I been able to find one, that if it was competent to introduce the 5 Eliz. by a royal charter, why it was not equally competent to introduce 2 Geo. 2, by the like authority. That both the statutes could stand together; and that it was optional in the court to choose the statute which it liked best, I thought impossible, on clear principles of law; for I understood it to be an undoubted maxim in law, that whenever a statute constitutes that offence which was a misdemeanor to be a felony, the existence of the misdemeanor is destroyed and annihilated; or, as lawyers express it, the misdemeanor is merged in the felony. The 2 Geo. 2, having made forgery, which was a misdemeanor both at common law and by the 5 Eliz. to be a felony, the offence at law and by the 5 Eliz. were both merged; and neither the common law nor the 5 Eliz. were any longer existing laws with regard to forgery. The 2 Geo. 2, c. 25, became the only law by which forgery was a crime; the court therefore must have proceeded on that statute or not at all. If forgery was not a capital offence in Calcutta, it is no offence there. If the statute could not have been put in force, it would have operated as a pardon for the offence, which the legislature intended it to punish with more severity. This, as most other arguments with which I have troubled the House, were made use of by me in court to support the indictment. By these I then understood that sir Robert Chambers was convinced; he most certainly acquiesced: I never understood him to have been over-ruled; and his subsequent conduct, if any doubt could be entertained, proves most manifestly that he was not; for he not only sat through the whole trial, but concurred in overruling every objection in arrest of judgment; assented to the summing up of the evidence; was present and concurred in the sentence. In vindication of the character of that learned judge, and to show that he was not in any of those acts prevaricating, but concurred, not in appearance only, but in fact, I beg leave to read a paragraph of a letter written to the Court

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of Directors, and signed by him and all the other judges on the 2d of August, 1775: "Add to this, that the continual obligation of defending every act we do, however regular, which these gentlemen (ignorant of the grounds of our proceedings, and not supposed by their stations to be much conversant with law) may conceive to be wrong, must keep us in a perpetual state of disquiet and uneasiness, and totally take away that respect and veneration which the people ought to entertain of the persons and judgments of their magistrates; of which at present we feel ourselves to be in full possession, and which we attribute in a great measure to that confidence necessarily arising from seeing that our judgments have in every instance been unanimous, whatever representation may be made to the contrary." Sir Robert Chambers here suspects that representations would be made of a difference of opinion, and denies it by anticipation.

Nundcomar was executed on the 5th of the same month, two days only after this letter was wrote; nor can it be supposed by those who would support the character of sir Robert Chambers against mine, that this letter, dated so near the execution, was written with this distinction secretly reserved in his breast, that he agreed in the judgment, but dissented from the execution. To this his known honour, uprightness, and openness of character, forms the strongest negative. But there is undeniable evidence of his actual assent to the execution. All the judges, sir Robert Chambers included, signed the calendars, which (the Supreme Court having adopted the practice at the assizes in England) are the only warrants for execution in Calcutta. There are two calendars signed by the judges; one is delivered to the sheriff, the other remains as a record of the court; the court appoints no time for the execution.

The sheriff executes the judgment at a convenient time, according to his discretion. Not expecting this article, I have not the calendar itself, but I can positively assert the fact. And the undersheriff, now in England, if called on, will thus far support my testimony, that he had the calendar as his warrant; that it would have struck him as extraordinary, if not signed by the four judges, and that no such observation occurred to him, and that he from thence concludes it was signed by the four judges. But to show his opinion more fully, and that he not only approved the proceedings had, but would have carried the legal consequences of the conviction even beyond the execution, I have in my hand a letter from him to me, written the day on which Nundcomar was executed, proposing to me to give orders to the sheriff for the seizure of the effects of the convict:

"Dear Sir; as I understand that Nundcomar has been executed this morning, I submit it to your consideration, whether the sheriff should not be immediately ordered to seal up this day (if he has not done it already) not only the books and papers of the malefactor, but also his house and goods. Among his papers, if not secreted, it is said there will be found bonds from many persons, both black and white, against whom I conceive that writs of *scire facias* should be directed by us as supreme coroners.—I am also inclined to think, that a commission should issue under the seal of the Supreme Court, to persons appointed by us to inquire after his effects at Moorshedabad and elsewhere; but this I have not sufficiently considered, and only mention it now, that you may think of it. In England the commissioners are usually named by the attorney-general; and, as there is no such officer here, perhaps we ought to name them.—However, the first step to be taken by the sheriff ought not, I think, to be delayed a minute. If you are of the same opinion, you will, I suppose, give orders to the sheriff, if you have not done it already, and will appoint some time for us to meet and consider of the subsequent proceedings.—I am, dear Sir, yours sincerely,

"ROBERT CHAMBERS."

But as the charter had not appointed any officer to secure escheats and forfeitures, I did not esteem it to be the duty of the court to act as escheator for the crown, and therefore declined giving such orders. Could sir Robert Chambers himself, after his public concurrence, in contradiction to the letter signed by him, and his zeal to prosecute the effect of the conviction to its utmost consequence, wish to be defended by a denial of his approbation both of the judgment and the execution? Could he himself, if present at your bar, or in any court of justice, be received, to make this defence in direct opposition to his own acts, both private and public?

That any appeal was presented I have

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no recollection; and it is extraordinary that such a fact should have escaped my memory. Had sir Robert Chambers differed in opinion on it, it is impossible I could have forgotten it. But as an honourable member has given evidence of the fact; I will not oppose my memory to his testimony; and even if my evidence could be received in a case in which I am so deeply interested, yet positive evidence to a fact must and ought always to have more weight than a negative assertion of not recollecting it.

I am sure that gentleman has said no more than what he knew, or thought he knew; yet I have great reason to believe, that a petition delivered by the prisoner, desiring to be respited and recommended to his Majesty's mercy, has been, after a long lapse of time, confounded with an appeal. At all events, if there was an appeal, it must remain on record, or there must be some minute of its rejection: the proof of the existence or non-existence of which, as well as an authenticated copy of the calendar, I should have brought from Bengal, or procured since, had I entertained the most distant suspicion that this charge could have been preferred against me.

The powers given to the court in case of appeal and recommendation to mercy, are both strict, and the different intents for which they are given must be attended to, before it be pronounced a breach of duty to refuse the one or the other. The authority by the charter in case of appeal is in these words: "And it is our further will and pleasure, that in all indictments, informations, and criminal suits and causes whatsoever, the said Supreme Court of judicature at Fort William in Bengal shall have the full and absolute power and authority to allow or deny the appeal of the party pretending to be aggrieved, and also to award, order, and regulate the terms upon which such appeal shall be allowed in such cases in which the said court may think fit to allow such appeal." An appeal therefore must show matter of grievance, which, in the opinion of the court, is sufficient to call his Majesty's attention, for the purpose of exercising his judgment on. The power in case of respite is this: "We do hereby authorize and empower the said Supreme Court of judicature at Fort William in Bengal to reprieve and suspend the execution of any capital sentence, wherein there shall appear, in their judgment, a proper occasion for mercy, until our pleasure shall be known; and they shall in such case transmit to us, under the seal of the Supreme Court of judicature at Fort William in Bengal, a state of the said case, and of the evidence, and of their reasons for recommending the criminal to our mercy; and in the mean time they shall cause such offender to be kept in strict custody, or deliver him or her out to sufficient mainprize or bail, as the circumstances shall seem to require." The recommendation for mercy must state reasons, which the judges, in their opinion, think sufficient to induce his Majesty to extend his mercy. The first is in the nature of a right, impeaching the judgment; the second is matter of favour, arising from the particular circumstances of the case. In the appeal, the party aggrieved must state the particular matter of grievance, which must arise from the illegality of the proceedings, the defect of the evidence, matter in arrest of judgment improperly over-ruled, the misconduct of the jury or judge.

To make the disallowing of the appeal criminal, the charge should have stated the grounds of grievance, if any existed. As the appeal is not produced, it does not appear whether any, or which, of these matters were alleged; if no matter of grievance was alleged, there can have been no breach of duty in rejecting the appeal: It must have been rejected, because it showed no cause for allowing it. It is not pretended that sir Robert Chambers's proposition was the ground of the supposed appeal, or that he again urged it on the appeal: if he did not, it is an additional proof of his acquiescence: if overruled at the trial, why did he not urge it on the appeal? The granting of a respite, and recommending to mercy, is not a power to be exercised at mere will: after the conviction, neither the law, nor the charter, requires that the judges should assign reasons for carrying the judgment into execution. The law is their rule, and they are bound to execute it: it is in case of their not executing it, that they are bound to assign their reasons. They must be reasons which the judges, in their opinions, think sufficient to induce his Majesty to extend his mercy. They cannot respite and recommend to mercy without transmitting these reasons to his Majesty "under the seal of the court." Should the judges have done it, if in their consciences they thought this not a case for mercy?

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I shall now examine whether the court could, consistently with their duty, transmit to his Majesty any of the reasons suggested in this article, or any other reason, as sufficient to induce him to extend his mercy. Could they state that Nundcomar was a native inhabitant of the provinces, and that he was not subject to the law, and that it was, as to him, an *ex post facto* law? The representation would have been fallacious; for he was an inhabitant of Calcutta, on whom the law was binding, and the law preceded the crime. It made no part of his defence.—Should sir Robert Chambers's objection be stated, it was not founded in law; he had waved it, and agreed with the court *in toto*, and must have joined in rejecting the appeal, if any appeal was in fact presented.

Should it have been stated that the prisoner was ignorant of the law, and that it had not been published with sufficient notoriety in Calcutta; that would have been to deceive his Majesty. The conviction of Radachund Metre, the petition of the Hindoos, the resolution of the council, the publication of the pardon, all falsify it.—Should the time that had elapsed between the commission of the crime and the prosecution have been assigned? The intermediate time being satisfactorily accounted for, it would have been misleading his Majesty to state it: The benefit of the observation on the distance of time was *in favorem vitæ* allowed the prisoner by being left to the jury.

Should any proceedings in the civil court have been assigned as a reason? Would it have been proper to transmit the bare facts, without stating the suspicion arising from the non-production of them? With these suspicions stated, would it have remained a cause for the King to extend his mercy? That there had been such proceedings, though there had been no legal evidence of them, was stated to the jury in the summing up, without any comment whatsoever.

If the petition from Mobarick ul Dowla, as set out (of which I have no recollection), was presented, could that have been a ground, supposing Mobarick not in fiction, but in truth, to have been sovereign with independent power over the inhabitants of Bengal; would it have been proper for him to interfere in judicial proceedings in Calcutta? How could the inhabitants of his dominions, if he had dominions, be affected by a sentence carried into execution in an English town, not in his dominions? By what means could he know, or have any opinion, whether Nundcomar was or was not guilty? What did he know of the malice of his prosecutor, or who were his prosecutors? Was it from him or the governor-general and council, that the judges were to learn the merits of Nundcomar from services to the English nation? But when the true state of Mobarick is considered, would it have been treating his Majesty with proper respect, if the court had made that use of such a petition?

Should the injury to the relations and to the cast of the convict, or that any disturbances were necessarily expected to arise among the Hindoos, have been assigned? Time, fact, and experience have shown that it could not have been done with truth. His son, Rajah Gourdass, had been recently before the execution placed, and continued for a long time after it, in a high office. He and his relations enjoy their cast without any prejudice, and are in no less rank and estimation than their ancestors. No disturbances whatever have been occasioned by it among the Hindoos from that time to this. Many evils were predicted; yet not one in fact has happened, either to his family or to the Hindoos in general, notwithstanding the credit those predictions might have acquired in England. In the case of Radachund Metre, an Armenian had been prosecutor. In this case an Hindoo was prosecutor; the original information was by Hindoos; his conviction was chiefly on the evidence of Hindoos: there was more reason for the judges to draw inferences from their acts, as to the prejudice the execution would do to their cast and religion, than from any surmises and representations made by other persons, and which have in fact turned out to be untrue.

Should his rank and opulence have been stated? It was proper those facts should be left to the jury for them to draw inferences against the probability of his having committed the crime; but when the crime had been clearly proved to their satisfaction, they remained aggravations, not mitigations: they were left to the jury, and the inference in favour of the prisoner was pointed out to them.

Should the circumstance stated in the charge of his having been indicted by Mr. Hastings and others on a conspiracy of bringing false accusations, have been assigned as reasons for mercy? A jury had, on one of those indictments, found

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the charge to be true, and there was no apparent relation between the two prosecutions.

At this time indeed Nundcomar had accused Mr. Hastings; but on what ground was it to be imputed to the prosecution, that the accusation was the cause of bringing it forward, when, in truth, there is no period at which it could have been brought on before? There had been no voluntary delay in the prosecutor; the instant he thought he could obtain justice, he applied for it; could then this simple coincidence of circumstances, so accounted for, furnish a reason to be submitted to his Majesty? If so, Nundcomar's case would have been extraordinarily fortunate. Till the erection of an independent court of justice, the prosecutor was deterred from preferring his indictment, by an apprehension of the protection publicly known to be given by Mr. Hastings to the criminal. Abuses of this Nature were what the court was intended to remedy.—At the only time the prosecutor could prefer it with hopes of success, Nundcomar would have purchased immunity by exhibiting an accusation against the person who had before shielded him from justice.

Should it have been stated as a reason to his Majesty that Nundcomar had preferred an accusation against Mr. Hastings? Who was the accuser, and who was the accused? It was notorious to all India, that Nundcomar had been the public accuser of Mahommed Reza Cawn without effect, though supported by the power and influence of government. He had been convicted before the judges of a conspiracy to bring false accusations against another member of the council. Against whom was the accusation? not against Mr. Hastings, censured by this House; not against Mr. Hastings, impeached before the House of Lords; not the Mr. Hastings, for whom the scaffold is erected in Westminster-hall; but that Mr. Hastings, whom I had heard the Prime Minister of England in full Parliament declare to consist of the only flesh and blood that had resisted temptation in the infectious climate of India; that Mr. Hastings, whom the King and Parliament of England had selected for his exemplary integrity, and entrusted with the most important interest of this realm. Whatever ought to be my opinion of Mr. Hastings now, I claim to be judged by the opinion I ought to have had of him then. What evidence had the judges that the accusation of Nundcomar was true? how could they know that they were screening a public offender in the person of Mr. Hastings, so lately applauded, so lately rewarded by the whole nation? Ought the judges to have taken so decided an opinion, on the guilt of Mr. Hastings, as to grant a pardon to a felon, and assign as a reason that the convict had been his accuser? With what justice to Mr. Hastings could this have been done—with what justice to the community? Who could have been safe, if mere accusation merited indemnity?

In the next charge I am severely censured for observations made in the course of commenting on evidence to the prejudice of the defendant's cause, and to the gentlemen of the Patna council in a cause regularly before me. How much more should I have been subject to censure, had Mr. Hastings been at this time, in the opinion of this House, the man that he was then understood to be in India, by this House, and by the nation at large, if I had gone out of the cause, and wantonly defamed and prejudged him without any evidence to give colour to the outrage?—but though it would have been unjust in me or the judges, either to have suggested these reasons as coming from the court, or to have adopted them without positive proofs on the suggestion of others; yet, if that part of the council who were convinced of the guilt of Mr. Hastings had made a representation to the judges, that there were probable grounds for the accusation, and shown those grounds; if they had stated (as well they might, if the notoriety was, as the charge represents) that there was just reason to believe "that the prosecution was at the instigation of Mr. Hastings or his partizans, with a view to screen him, and not for the sake of procuring justice against the convict;" there can be no doubt but the judges would have respited the criminal, even though there might not have been evidence sufficient to convince them. They would have transmitted to his Majesty the representations of the council as the cause for the respite, and left it to him to judge of the validity of their reasons. If the judges had not yielded to that representation, they would indeed have incurred great responsibility: if the gentlemen of the council so thought, it would have been justice to the criminal, it would have been justice to the court,

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and a duty they owed to the public, to have made that application. But what their real opinion, was, will appear hereafter by their public and solemn acts. Consistent with that opinion they could not have made such a representation.

If there was no reason that could justify the court in recommending the criminal to mercy, there were many against it: the defence, in the opinion both of the judges and jury, was a fabricated system of perjury. The jury requested that the prisoner's witnesses might be prosecuted. After the trial it became matter of public notoriety that the defence had been fabricated, and the witnesses procured to prove it by an agent of the prisoner. One of the judges, Mr. Justice Lemaistre, had declared that a large sum of money had been offered to him to procure a respite. A public visit had been paid to the criminal with much parade by some members of the council, after he had been accused of the conspiracy, as appears by the evidence of major Webber at the trial of the King against Fowke and others. That the Governor-general and council had publicly interfered with proceedings of the judges who committed the offender, appears by the minute of the Governor-general and council of the 8th May 1775, which I have obtained from the India-house. That the secretaries and aid-de-camps of the members of the council visited him after his commitment for the felony, and that even the ladies of the families of general Clavering and colonel Monson were in the habits of sending their compliments to him in the prison, appears by affidavit of Yeandle in the Appendix of the Report of a Committee. Had formal and ostentatious visits been paid by persons of high rank, by persons at the head of administration in this country, to a man charged with a criminal offence, it would probably have been thought highly indecorous. Should the compliments of their principal officers, of the ladies of their families, be daily and ceremoniously presented to a felon in Newgate, could that be presumed to be done without the knowledge and approbation, if not at the instigation, of the heads of the families? Would not this in England from such persons, be justly esteemed as bordering on an insult or reproach to public justice? But in Calcutta, among the natives of India, where etiquette and decorum are kept up with a scrupulous anxiety unknown in Europe, among people where ladies are held so sacred, that even the mention of them for the complimentary purposes of inquiry after their health, would be considered as a breach of good manners, the effect of such visits and such compliments must be much stronger, and the intention of them could not possibly be misunderstood. What effect the conduct of these gentlemen had on the criminal himself, will appear by the same affidavit of Yeandle, who swears that "he (Nundcomar) always conceived hopes of his being released even to the day before his execution, when he wrote a letter to the council for that purpose; and that messages were continually sent by him to general Clavering and colonel Monson, and answers returned:" "That he always understood, from Maha Rajah Nundcomar and his attendants, that it was from the influence of general Clavering and colonel Monson, that he expected his enlargement."

That it had the effect on the natives in general to induce them to believe that he would be released by the authority of some members of the council, appears by two affidavits; the one was made by Mr. Alexander Elliot, son of the late sir Gilbert Elliot, the other by Mr. Durham, both of whom held offices which enabled them to have an intimate knowledge of the opinions of the natives. [Here sir Elijah read the said affidavits.] These are no secret affidavits; they were communicated by me to the Governor-general and council, before they were sent to England. These opinions, both of the natives and of the prisoner, were, no doubt, equally injurious to those gentlemen. Though these incidents ought not to have operated against the prisoner, had his case been such as would have afforded grounds for recommending him to mercy, and though they did not operate against him, yet of themselves they could be no ingredients for respiting the sentence. The judges thought the execution of the convict, under all circumstances, necessary to the vindication of public justice, insulted by the publicity of the perjury by which the defence had been attempted to be proved, and to the very essence of the reputation of the court, against the imputation of timidity, dependence, and corruption. It was necessary to the obtaining the confidence of the natives at the first institution of a new court, not only that it should be, but that it should appear to be, incorrupt and independent.

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That no possible aggravation might be wanted, it is finally stated, that "it was my duty to be counsel for the prisoner, but that I wilfully failed altogether in that duty, and became the agent and advocate for the prosecution, and pronounced a charge, with a most gross and scandalous partiality, dwelling on points favourable to the prosecution, and passing lightly over such as were favourable to the prisoner, and manifesting, through the whole proceedings, an ardent wish, and determined purpose, to effect the death of the prisoner." "That I barely touched on strong and valid objections to the competency of the witnesses for the prosecution, and falsely and knowingly represented them as credible and unimpeached."

The having wilfully failed in the duty of assisting the prisoner, and having been the agent of the prosecutor throughout the trial, and in summing up the evidence, I feel affecting my moral character to the very root. Conscious as I am how much it was my intention to favour the prisoner in every thing which was consistent with justice; wishing, as I did, that the facts would turn out favourable for an acquittal; aided as that wish was by the knowledge of the responsibility of my situation, both before God and man, and by the certainty, from the then temper of the council, that there were those who would transmit to England the worst representations that colouring could express; it has, I own, appeared most wonderful to me, that the execution of my purpose has so far differed from my intentions, that any ingenuity could form an objection to my personal conduct as bearing hard on the prisoner.

What statement of the trial the gentleman who drew this article is in possession of, or from whom he received his information, will appear in the evidence which will be laid before the House: candour would not suffer such a charge to be exhibited without some evidence to support it: what it can be, I am totally ignorant. I myself know of no other evidence of what passed at the trial, or of the charge to the jury, than the account of it printed by Cadell. The copy sent for printing was revised by all the judges, and an authority for the printing it was signed by all the judges, sir Robert Chambers included. This voluntary act is another proof of his full concurrence. That account I believe to be authentic, except where there are some literal mistakes.

I do not understand it to have been my duty to act as a feed advocate for the prisoner; and to labour his acquittal, at the expense of justice. I conceive the meaning of the expression, that it is the duty of a judge to be counsel for a prisoner, to be this:—That it is his duty not to suffer any undue advantage to be taken of him; to give him every advantage the law will allow; to see that the law is not strained against him; that no improper evidence is admitted against him; and to lay before the jury every observation that can with justice be made in his favour. To show that I did not decline, but scrupulously discharged, that duty according to my sense of it, I must beg leave to read such extracts from the trial as I esteem a full answer to this most horrid charge.

[Sir Elijah here read various parts of the printed trial,* in which he had stopped the prisoner's counsel from putting questions that must have been detrimental to Nundcomar. He answered the charge of his having shown gross and scandalous partiality during the trial, with respect to a witness named Kissen Juan Doss, and referred to the printed account of the trial in corroboration of it.]

On this evidence I submit to the House, whether the observations naturally arise out of the subject, or are forced, and the grounds for them are "slight, trivial, and insufficient." To this it might have been added, that this man, with a knowledge of the innocence of Nundcomar (which must have been the case, if his last evidence was true), was himself his voluntary accuser in the information before the judges, who originally committed him. His information, signed Mr. justice Le Maistre and Mr. justice Hyde, is in my hand. The demeanor of the witness could not be reduced to writing, was transitory, and could be observed only by the eye of the spectator; and therefore cannot be proved but by witnesses present at the time. But these observations were made to a jury, who themselves saw the behaviour of the witness, and were as capable of judging of the truth of them as I was who made them. Of the great excellencies of the trial by jury, it is not the least that they are enabled, by having the witnesses examined *vivâ voce*, to form their judgment not only from their evidence itself, but from their manner of delivering it.

* See the Trial of Nundcomar in Howell's State Trials, Vol. 20, p. 923.

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These observations were made in the presence of sir Robert Chambers and two other judges, who might and ought to have contradicted me, if the observations had not been true. They were made in the face of a most numerous assembly of the inhabitants of Calcutta. Can it be believed I could so far publish my own shame, as openly to make the assertions contained in the summing up, if the ears and eyes of the bye-standers could have testified against me? If it was really my "meditated purpose to effect the ruin and death of the prisoner," was so flagitious a conduct calculated to effect it? The horror and indignation which must have arisen in the breast of the jury, must have produced the immediate acquital of the prisoner, whom they saw so iniquitously circumvented and oppressed by his judge.

There are insinuations in another article, though no direct charges, that my partiality to the witnesses was carried beyond the trial in the case of one Comaul ul Deen, who was discharged by an habeas corpus, and of Rajah Nobkissen, supposed to be protected by the court from claims for revenue, because (as is said) he procured addresses to the court soon after the death of Nundcomar, and attempted the same thing when the petition of the British inhabitants against the court was in agitation.

Though these insinuations form no part of the first charge, they are so intimately connected with this, that it may be no improper time to obviate them. As to Comaul ul Deen, the habeas corpus was granted by sir Robert Chambers, and the discharge was by the unanimous judgment of the whole court, consisting of four judges, the return to the writ being bad and undefended. But when this man brought an action for the imprisonment, from which he was relieved by the habeas corpus, there was judgment against him in consequence of my casting voice, joined to that of sir Robert Chambers, contrary to the opinion and evidence of Mr. Hastings (whom I am charged with favouring) given at the trial, and against the opinion of two of the judges, who strenuously argued for the plaintiff.

Had I wished to favour this man, could I have had a better opportunity of covering my partiality and sheltering myself, than by coinciding with the majority of the judges?

As to Nobkissen, if he did procure addresses, I am a total stranger to it; I never had any intercourse with him. All I know of the latter subject was through sir Robert Chambers; he told me, Nobkissen had informed him that the native inhabitants had been solicited to send up an address against the court, but were so far from being prevailed on, that they were desirous of presenting a counter petition. My answer was, that I should be perfectly contented if they were silent, as that silence would show that neither the example nor the influence of all the British inhabitants united could induce them to petition against the court. To see the British inhabitants, whom the court was specifically meant to control, become the champions of the natives, whom the court was specifically meant to protect; to see the British inhabitants petition for the abolition of the court for oppressions committed against the natives, when they themselves could not be prevailed on to make any complaints; I mistakingly thought would have been received in England as the most irrefragable proof, that the court had fully answered the purpose of its institution, by having been a restraint to those who complained, and a protection to those who were silent. I told sir Robert Chambers I wished him to use great caution in saying any thing to Nobkissen which might look like encouraging him, because I would not put it in the power of any man to say that I had promoted petitions in favour of the court. [Sir Elijah here read the letters of sir Robert Chambers to him on this subject.]

It is not among the least of my misfortunes that this transaction was not inquired into when it was recent. From the temper of the times, and the state of the nation, the judges apprehended, nay, they knew, that false representations of their actions would be made in England. They therefore thought it prudent to send over an authentic account of the evidence given to the jury, that by publishing to the world what was the real state of the case, by means of a person ready and able to authenticate it by his own testimony, they might obviate any malicious insinuations and false reports that might have been circulated to their prejudice.

At that time a gentleman of known honour was going to England; the judges entrusted to him a discretionary power for the publication of the trial if he found it necessary: he had collated their notes, and had undertaken to bear testimony to the authenticity of them; he had served voluntarily as interpreter through the

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whole trial; it was by his skill in the languages of the country that the court was enabled to proceed in the trial with that accuracy which was necessary in a cause of so much importance: he pointed out the prevarications of the witnesses; he could have verified the narration from his own memory; and what is material to this point he could have spoken as an eye-witness to my particular conduct at the trial. He lived in that intimacy with me, that I may almost say he made part of my family; and as no secret of my heart was unrevealed to him, he could have given the fullest and most unequivocal account of my sentiments with regard to carrying the sentence into execution,

In my letter of the 20th January 1776, to the Secretary of State, "I appeal to him" and of him I there say, "he knows what my sentiments were with relation to Nundcomar, both before and after he made his defence; he interpreted at the trial of Nundcomar; was present at that of Fowke; and can testify to the behaviour of the judges on both trials." As to the legality of the proceedings, he was certainly no competent judge as to the propriety of my conduct; and whether I "became the advocate, agent, and instrument of the prosecution," his good sense and peculiar delicacy of feeling qualified him most eminently to determine. He undertook the business of representing what was the real conduct of the judges voluntarily; he saw the behaviour of the witness Kissen Juan Dess; he heard my observations on it, The calumnies propagated from Calcutta by minutes secret there, but published and meant to be published in England, made him use the discretion entrusted to him to refute them. He printed the trial; his testimony could have supported the truth of it; if it could not no consideration would have prevailed on him to have published a trial with such gross misrepresentations, and, by undertaking the vindication of the judges, to have been instrumental in deceiving the king, his ministers, and the public, in the most abandoned manner. He is unfortunately no more: but though I am deprived of his living testimony, yet his acts and his character still bear evidence for me. As the character of that gentleman cannot be known to the House, I beg leave to give it, from the evidence of a letter of Mr. Bogle, as letters from that gentleman have been already received as evidence by your committee.

"My Dear Sir Elijah; I am favoured with your letter.—The loss of Mr. Stewart, at the very moment too when I expected to have met with him, affected me very much; but the affliction which has now fallen on me in the death of Elliot, is more than I can bear. The inclosed will give you the particulars. Pity me, sir Elijah; his death leaves me hardly an object in life worth attending to. I enjoyed no pleasure equal to his company; I pursued no scheme, either of business or amusement, in which my mind did not associate him; I loved him with an affection above all the world; and he deserved of all men to be beloved: he possessed every talent and every virtue that the warmest imagination could draw; and I have often tried to discover one fault or defect in his character in vain.—I am, &c.

"*September* 30, 1778. G. Bogle."

To which I may add, that inventive malice can do no injury to his memory, except the prosecutor, by maintaining the foul motives charged on me, should, by necessary consequence, fix them on him, and thereby blast his fair fame with unmerited infamy, for the zealous part he took in the investigation of truth. To this gentleman I referred in my letter to the Secretary of State, of the 20th of January, 1776, in these words: "To prove that nothing was intended to be hid from the English nation, an authentic copy of the trial has been sent to England, and is in the hands of Mr. Elliot; he has authority to publish it, if he finds the foul aspersions, which were reprobated here, have been endeavoured to be propagated in England. It is fit that your lordship should also know not only what the gentlemen have promulgated in England, but (which is equally in their knowledge) that before the trial, many daring attempts were made on the part of the prisoner to suborn witnesses; that, on a detection of a gross practice of that kind before Mr. Justice Le Maistre and Mr. Justice Hyde, a band of witnesses sent down from Burdwan notoriously to give evidence at his trial, immediately disappeared. It will be seen, on perusal of the trial, that the guilt of the prisoner was proved as strongly from the case he attempted to prove, as from the evidence on the side of the prosecution. It should be known, that, after the trial, the jury entertained so ill an opinion of the defence, that they applied to the court that the principal witnesses for the prisoner,

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should be instantly committed for perjury: it is proper it should be known, that the jury were repeatedly solicited after the trial to recommend the criminal to mercy:—It should be known, that the conduct of the counsel to the judges, and to the prisoner, during his confinement, had raised an almost universal belief in the natives, and even among Europeans, that he would be protected from justice in defiance of the court. Of the last of these facts, two gentlemen have made affidavits, Mr. Elliot, A. and Mr. Durham, B.; and as to the rest, I appeal to Mr. Elliot, now in England, whose veracity, candour, and honour, no man will dispute. He knows what my sentiments were in relation to the prisoner, both before and after the defence.—He interpreted on the trial of Nundcomar, and was present at that of Fowke, and can testify to the behaviour of the judges on both trials."

That I was authorized in appealing to him, and that he voluntarily undertook the vindication of the judges, will appear from his letter wrote on board of ship in August 1775, after his departure from Calcutta for England.

Had the proceedings been, as stated, without colour of law; had my conduct been as profligate as is represented; such a total deviation from justice, such a defiance of decency and decorum, would naturally lead to look for undue motives as the causes of it. Perilous indeed would be the situation of a judge, if, after having strictly confined himself to the line of his duty; if, after having proceeded so that no legal objection can be supported against him; he shall be open to have corrupt motives assigned for legal acts done in the ordinary course of justice. Our history cannot afford an instance of so extraordinary a charge against any judge in England, even on a recent cause. But more perilous is my situation; more extraordinary my case; if, having acted in like manner, I shall find myself still open to like accusation for the like acts done thirteen years before the time at which, and in a country 16,000 miles from the place in which I am called to answer to it, and that not only without receiving any notice of the charge, but after having been misled into a security that no such charge would be made against me; yet that it is my case, without my prosecutor even asserting that he can produce any evidence to show an illegal communication between me and Mr. Hastings or his partizans; without evidence even that Mr. Hastings or his partizans were in any league or combination against the prisoner, that they had any communication with the prosecutor, or were in any manner instrumental or privy to the prosecution; and contrary to the evidence of Mr. Hastings, who, in the cause of the King *v.* Fowke, had been purged on oath on that subject; the whole proof of this being left solely to inferences drawn from this single circumstance, that Nundcomar was not indicted till after he had accused Mr. Hastings, a circumstance which has been satisfactorily accounted for; and this after the fact has been eleven years the subject of parliamentary investigation; after Mr. Hastings's conduct has been critically scrutinized, and nothing to prove such combination, has or can possibly be brought to light.

From this sole circumstance, standing as it does, it is asserted, that such a notoriety has arisen as to produce an universal necessary conviction, that the whole proceedings were for the purpose of screening Mr. Hastings from justice. That no such universal conviction did ever actually exist, I have the most infallible proofs, or if it did exist, that the whole body of Armenians and Hindoo inhabitants of Calcutta; that all the free merchants, all the grand jury, all the petit jury, sir Robert Chambers, and all the judges, the Governor-general, and all the council, must have been united in the same horrid combination. For I have in my hand the addresses of all the Armenians, of all the Hindoos, of all the free merchants, and of the grand jury, which authorized part, and heard all our proceedings, when those proceedings were recent.

My portraits now hanging, the one in the town-hall, the other in the court-house; the one put up soon after this trial, the other on my leaving the settlement, if this notoriety be true, are libels against the inhabitants, the settlement, the judges, advocates, attorneys, and officers of the court, who subscribed no small sum for the preserving my memory amongst them.

To the addresses I know objections have been made, and perhaps will be revived, that they were procured by power and influence. How such influence or power could be derived from the court, cannot, I believe, be easily accounted for. In whom the power and influence of government was then vested, every act of power, and every record of the Company, have fully published. The Company's servants, on

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whom such power and influence must act, most immediately and forcibly, formed the only body that did not join in the addresses. And that the gentleman,* whose name stood first on the address of the free merchants, who had been president of the settlement, and then enjoyed the office of superintendant of the police, for which a knowledge of the manners and habits of the country was particularly necessary, and for which his long residence in the country had peculiarly qualified him, was, immediately after presenting the address without any fault objected to him, discharged from his office, and his place supplied by a gentleman† who had not been many months in the settlement, is a fact, which will not be controverted. The alleged notoriety could not have had any operation on the minds of the grand jury who found the bill, nor of the petit jury who convicted him; nor of sir Robert Chambers and the other judges who sat through the trial, agreeing and assenting to all the acts of the court; who concurred in giving sentence, in disallowing the appeal (if any there was), in refusing the respite, signing the calendar, and carrying the sentence into execution. Had my conduct been profligate, as it is stated to have been, should not the other judges, instead of concurring, have opposed me in every step? If sir Robert Chambers had really, as is asserted, thought the proceedings illegal; if this notoriety had produced this conviction in him; if he deemed my conduct iniquitous; was not he particularly bound to have taken an active part? Should he not have given a counter-charge to the jury? Should he not, by exposing my corruption and detecting my partiality have held me up (if I had not sufficiently done it myself) to the detestation of the jury and the whole settlement? This has, under similar circumstances, been done by honest puisne judges in England: Could passiveness and silence in such a case be reconciled to honour and conscience?

That this notoriety did not influence the Governor-general and council, or that which is called the majority of the council, I am able to give still more convincing proofs from their direct unequivocal official public acts; and by those acts I desire it may be determined, whether their opinions are in support of, or in opposition to, the prosecution on this article.

The Governor-general and Council in August 1775, ordered a paper to be burnt by the hands of the common hangman, as containing libellous matter against the Judges; but without publication of its contents. The Judges knew, that both the paper, and proceedings on it, ought to be transmitted to the directors and the King's ministers; and though secret in Calcutta, would be public in England; and being thereby materially interested in them, applied to the Governor-general and council, by letter, requesting a copy of the libel, and of such minutes as related to it, which stood on their consultation. This reasonable request was refused in the manner which will be seen from their answer on your table. The application is complained of by the Court of Directors, in their letter to lord Weymouth, in November 1777; likewise before the House, in support of their charge against the judges, of their claiming to inspect the records of the Company; with what temper, and with what reason, I must submit to the House. These proceedings I have obtained from the India House, and they are in these words:—

"EXTRACT of Bengal Select Consultations the 14th August, 1775.

"General *Clavering*. I beg leave to inform the Board that on the 4th of this month a person came to my house, who called himself a servant of Nundcomar, who sent in an open paper to me. As I imagined that the paper might contain some request that I should take some steps to intercede for him, and being resolved not to make any application whatever in his favour, I left the paper on my table until the 6th, which was the day after his execution, when I ordered it to be translated by my interpreter. As it appears to me that this paper contains several circumstances which it may be proper for the Court of Directors and his Majesty's ministers to be acquainted with, I have brought it with me here; and desire that the Board will instruct me what I have to do with it. The title of it is, "A Representation from Mahah Rajah Nundcomar to the General and Gentlemen of Council."

"Mr. *Francis*. As the General informs the Board that the paper contains several

* Mr. Playdell. He had been formerly President of the Council. Every man who knew him in India, must bear testimony to the respectability of his character, and the peculiar propriety with which he conducted that office.

† Mr. Macrabie, brother-in-law to Mr. Francis.

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circumstances which he thinks it may be proper for the Court of Directors and his Majesty's ministers to be acquainted with I would request that he lay it before the Board.

"Mr. *Barwell.* I really do not understand the tendency of this question, or by what authority the General thinks he may keep back or bring before the Board a paper addressed to them: or how this address came to be translated for the particular information of the General before it was presented here. If the General thinks himself authorized to suppress a paper addressed to the gentlemen of Council, he is the only judge of that authority; for my part I confess myself to be equally astonished at the mysterious air with which this paper is brought before us, and the manner in which it came to the General's possession, as likewise at the particular explanation of every part of it before it was brought to the Board. If the General has a particular commission to retain this paper from the knowledge of those to whom it is addressed, he alone is the proper judge how he ought to act; when the paper comes before me I shall judge of it.

"General *Clavering.* If Mr. Barwell will be pleased to recur to the introduction of my minute, he will observe that I mentioned having put the paper into the hands of my Persian translator, consequently could not know the contents of it, or to whom it was addressed, till it was translated. I brought it with me to the Council the first day which they met, after I knew its contents; but the Board not having gone that day into the secret department, I did not think it proper at that time to introduce it Nobody can be answerable for the papers they may receive. All that I can say is, that this paper had the seal and signature of Rajah Nundcomar to it; and I bring it to the Board just in the form I received it, that is to say, open.

"Colonel *Monson.* As this paper is said to contain certain circumstances with which the Court of Directors and his Majesty's ministers should be acquainted, I think the General should lay it before the Board.

"The *Governor General.* I do not understand this mystery. If there can be a doubt whether the paper be not already before the Board, by the terms of the General's first Minute upon it, I do myself insist that it be produced, if it be only to give me an opportunity of knowing the contents of an address to the Superior Council of India, excluding the first member in the title of it, and conferring that title on General Clavering; and I give it as my opinion that it ought to be produced.

"General *Clavering.* I am sorry to observe that the Governor-general should have mistaken the title of this address to the Board, by calling it an address to me as Governor-general, when the title of it had been so recently mentioned, by my saying it was addressed to the General and the Gentlemen of Council, which in my opinion does not express, either by words or by inference, that ever that title is such as the Governor-general has mentioned. At all events, I am no more answerable for the title of the paper than I am for its contents.

"The *Governor General.* I did not say that the address gave the General the title of Governor-general, but meant only to imply that it conferred that title on him, by mentioning him particularly, and the rest of the Council collectively.

"Resolved, that the paper delivered by the servant of Nundcomar, to general Clavering be produced and read.

"The General is accordingly requested to produce it; and it is read.

"N. B. This paper is ordered to be expunged from the records by a resolution of the Board, taken at the subsequent consultation, on the 16th instant."

"EXTRACT of Bengal Secret Consultations, the 16th August 1775.

"The Persian translator sends in a corrected translation of the petition of the late Mahah Rajah Nundcomar, delivered in by general Clavering, and entered in consultation the 14th instant, in which the Board remark that the address is made in the usual form, to the Governor-general and Council, and not as was understood from the first translation of it laid before the Board.

"The *Governor General* moves, That as this petition contains expressions reflecting upon the characters of the Chief Justice and Judges of the Supreme Court, a copy of it may be sent to them.

"Mr. *Francis.* I think that our sending a copy of the Rajah Nundcomar's address to this Board to the Chief Justice and the Judges, would be giving it much more weight than it deserves. I consider the insinuations contained in it against them

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as wholly unsupported, and of a libellous nature; and if I am not irregular in this place, I would move that orders should be given to the sheriff to cause the original to be burned publicly by the hands of the common hangman.

"Mr. *Barwell.* I have no objection to the paper being burned by the hands of the common hangman; but I would deliver it to the judges, agreeable to the Governor's propositions.

"Colonel *Monson.* I differ with Mr. Barwell in opinion; I think this Board cannot communicate the letter to the judges; if they did, I think they might be liable to a prosecution for a libel. The paper I deem to have a libellous tendency, and the assertions contained in it, are unsupported. I agreee with Mr. Francis in opinion that the paper should be burned under the inspection of the sheriff by the hands of the common hangman.

"General *Clavering.* I totally disapprove of sending to the judges the paper agreeably to the Governor-general's proposition, because I think it might make the members of the Board who sent it liable to a prosecution; and therefore agree with Mr. Francis that it should be delivered by the sheriff to be burned by the hands of the common hangman.

"The *Governor General.* I should have no objection to any act which should publish to the world the sense which this Board entertain of the paper in question; but it does not appear to me that such an effect will be produced by Mr. Francis's motion. The inhabitants of this settlement form but a very small part of that collective body, commonly understood by that expression of—the world.

"The petition itself stands upon our records, through which it will find its way to the Court of Directors, to his Majesty's ministers, and, in all probability, will become public to the whole people of Britain. I do not, however, object to the motion of its being burnt.

"The Board do not agree to the Governor-general's motion for sending a copy of the address of Maha Rajah Nundcomar to the judges, but resolve that orders be sent to the sheriffs with the original letter, to cause it to be burned publicly by the hands of the common hangman, in a proper place for that purpose, on Monday next, declaring it to be a libel.

"Mr. *Francis.* I beg leave to observe, that by the same channel, through which the Court of Directors, and his Majesty's ministers, or the nation, might be informed of the contents of the paper in question, they must also be informed of the reception it had met with, and the sentence passed upon it by this Board. I therefore hope by its being destroyed in the manner proposed, will be sufficient to clear the character of the judges, so far as they appear to be attacked in that paper; and, to prevent any possibility of the imputations indirectly thrown on the judges from extending beyond this Board, I move that the entry of the address from Rajah Nundcomar, entered on our proceedings on Monday last, be expunged.

"Agreed that it be expunged accordingly, and that the translations be destroyed."

It was publicly burnt accordingly, as appears by an extract of the Bengal Secret Consultations, 30th August 1775.

The whole proceedings are purposely rendered unintelligible by the chasm made in expunging the condemned paper; for by that act what it was that was condemned does not appear: that chasm I am able most fortunately to fill up, notwithstanding the anxiety expressed by the gentleman who moved the condemnation of the paper, that every memorial of it should be destroyed, by an authentic copy of it, in which the translation is corrected by the then Governor-general. He thought it no more than common justice to the judges to give it to me, and as it was in the secret department of Government, he delivered it to me under an oath of secresy, not to disclose it in India except to the judges; except to them it has not been disclosed to this day, when it is called forth by necessity for my defence. [Sir Elijah, at the desire of the House, delivered in a fac-simile copy of it.]

General Clavering's sense of the propriety of carrying the sentence into execution, will appear from the resolution which he affirms he had taken, to make no application in favour of the criminal, and the manner in which he treated that paper after he received it. By his testimony on oath in the suit of the King against Fowke and others, it appears he did not think that the prosecution of Mr. Hastings depended at all on the evidence of Nundcomar. It is not consistent with the high character which that gentleman has left behind him, that if he in his conscience thought there were circumstances in the case of Nundcomar which ought to render him a proper object for mercy, he should

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have taken that resolution, much less that he should defeat the petition of the unhappy convict, by detaining it until it could be of no possible use to him. And what makes this observation stronger is, that the paper was no private address to him only, but was an address to the Board at large, whose sense he would not suffer to be taken on the propriety of recommending him to mercy.

And surely I do not go too far when I assert, that had the paper been produced to the Board before the execution of the criminal, both humanity and duty required, if the council believed the facts alleged in that petition to be true, that they should have used all lawful, I had almost said unlawful, means to procure a respite of his sentence, instead of throwing an additional load of infamy on the memory of that unhappy man for making this last effort for his life; buoyed up, as it appears in evidence he had been, to expect his enlargement from the influence of the general and colonel Monson, even to the day before his execution, when he wrote this very petition, and sent it to the general to be delivered to the council for that purpose.

Yet the general was at first inclined to think that this paper contained matter proper for the information of the Directors and his Majesty's ministers; for on the 14th of August he introduced it for that purpose; but, on reflection and better information, like a man of honour he retracted his opinion, and considered it as a libel.

Mr. Monson and Mr. Francis never thought it fit to be communicated to the directors or the King's ministers, and general Clavering joined with Mr. Monson in holding it of so dangerous a tendency, that he feared even a communication of it to the judges might be deemed a criminal publication of it.

Mr. Francis thought it would be giving it more weight than it deserved if it was sent to the judges, as he considered the insinuations contained in it against them wholly unsupported, and of a libellous nature. If that notoriety existed then, and that conviction in consequence of it which is laid in the article—if that notoriety and that conviction extended to the majority of the council, how was the paper unsupported then? And if unsupported then, what new matter has arisen to support it now? What makes that a just accusation now which was libellous then? The member who moved that it should be burnt by the common hangman, added, that by the same channel which conveyed it to England, information would be given of the reception it met with, and the sentence passed upon it; and concluded by hoping, that its being destroyed in the manner proposed will be sufficient to clear the characters of the judges, and to prevent the possibility of the imputations indirectly thrown on the judges from extending beyond that Board.

That these were the real and not ostensible reasons held out on public grounds to suppport appearances, and to avoid flinging a stain on public justice, though they might privately think ill of the conduct of the judges, appears by those sentiments being declared in a secret department; so that the resolution could not fix a public stain to be noted in Calcutta. That the paper itself should have survived, is hardly more providential for me, than that the gentleman who moved for the condemnation of it, and who expressed his hopes that it would prevent any possibility of the imputations indirectly thrown out against the judges from extending beyond that Board, is the surviving member of that majority.

From him, who, to prevent its extending beyond that Board, had with so much solicitude procured the paper to be expunged from the proceedings, I hope I may be thought to have some claim to expect that these imputations will not be encouraged in England: should, nevertheless, such imputations have been suggested by any member or members of the council (and I am sorry to say that their secret minutes show that there have), I am in the judgment of the House, whether it would not be a precedent of dangerous tendency to admit secret communications and private informations in evidence from any persons whomsoever, to disavow and contradict their own solemn official unanimous acts entered on public records—on records required by act of parliament to be transmitted to his Majesty's ministers as authentic information both of their acts and their reasons for their acts.

I neither presume nor pretend to any right to inquire into the propriety of obliterating any matter from records of so high a nature, which has been thought of sufficient importance to be entered upon them: but as the arguments refuting this paper remain on those records, and matter

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of the same import with that paper has found its way beyond that Board, and has extended to England, and even got into the reports of your committees, I may be indulged in complaining (without giving offence) of the effect of that tenderness to the judges which would not permit that paper to remain on the proceedings. Had it remained, the Directors and his Majesty's ministers would have seen what were the particular topics which had been censured, and been thereby enabled to judge of the candour and propriety of reviving and propagating indirectly by secret minutes the very same accusations which they had publicly condemned as a libel. Had it remained on the record, those accusations could never have been made.

Having, I hope, sufficiently obviated any ground that can be taken to support these charges from public opinion or that of the majority of the government of Bengal, the only remaining ground to be considered is, the opinion of the Directors in their letter of 19th November 1777. At what time, and under what influence, that letter was written, I have only learnt from distant report; the truth of which can only be known by those who were at that time in England. To this letter I oppose the instructions sent out by the Court of Directors with the charter of 26 Geo. 2, already alluded to, and their letter of the 19th February 1766, now lying on the table.

In the letter of 1777, they are alarmed that a native of high rank in Bengal had been tried for an offence not capital by the laws of the country where the offence was committed. Here, as in this article, by confounding the case of an inhabitant of Calcutta with that of a native inhabitant of Bengal, the proposition is mis-stated, and it is asserted not truly, that the offence was not capital by the laws of the country in which it was committed; but had they attended to their own instructions in 1756, to the case of Radachund Metre, transmitted to them in 1765, and more particularly to their own letter of 1766, in which they direct how an indictment should be formed on this statute, they must have known the offence to be capital by the laws of Calcutta, the country in which it was committed. It will even appear, by the proceedings in Radachund's case, that one of the Directors [Mr. Robert Gregory] who signed that letter of November 1777, was, in 1765, one of the grand jury which found the indictment on this very statute, that caused his alarms for the first time in 1777.

That letter says, "that the statute might have been adopted by the former courts:" It was not only adopted by the courts, but sanctioned by them. They call the Secretary's particular attention to the consequences of declaring all the criminal laws in force in Bengal, and assert "the judges must so do, if they are consistent with themselves." They mention "the endless and almost inexplicable distinctions by which certain actions are or are not burglary." They ask, Whether, "certain offenders can be transported to his Majesty's colonies?" and, Whether a man should be burnt in the hand for bigamy? and then conclude in these words: "If it were legal to try, condemn, and execute Nundcomar on the statute of George 2., it must, we conceive, be equally legal to try, convict, and punish the Soubahdar of Bengal and all his court for bigamy on the statute of James 1." Their calling for this attention, or their apprehensions about the almost inexplicable laws of burglary, must appear extraordinary, when they themselves have pointed out the mode of carrying those very inexplicable laws into execution.

The question with regard to transportation might be resolved from the same instructions by them. They inform the judges of their criminal courts, that transportation was a punishment which they were to inflict. This went beyond any thing which has been done by the Supreme Court; for neither those laws which the Directors call capital laws against burglary, nor the sentence of transportation, have ever by the Supreme Court been carried into practice, even in Calcutta. But the Directors had ordered them to be enforced. The consequence of trying the Soubah and all his court for bigamy did not surely arise from cool argument. They were no objects of the court's jurisdiction for any crime. To terrify the Hindoo and Mussulmaun inhabitants, and to raise in them an abhorrence against the Supreme Court, it had been industriously and seditiously propagated among them, that the law of bigamy would be enforced against them. This had been obviated to their complete satisfaction in the answer given by the Court to their addresses.

After this, when the natives had ceased to be under apprehensions, this letter re-

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echoes the same suggestion to raise alarms in the minds of men in this country. So far from its being lawful to enforce it in Calcutta, I humbly suggest to better lawyers than myself, Whether there could be a legal conviction on that statute, even in London, in the case of a second marriage of a Mussulmaun or Hindoo, if that marriage had been solemnized in a country where a plurality of wives is lawful or tolerated, and where the marriage had been solemnized by the rites of their own religion, such marriage not having given rise to such exclusive claims, either of the wife or children, as are created by an English marriage and sanctioned by English laws?

I now appeal to the House, Whether there be any circumstances attending the opinion of the Directors in 1777, or in the times themselves, which ought so far to overbalance their deliberate opinions in 1756 and 1766 (which must, in conformity to their ordinary practice, have been founded on the best legal advice), as to authorize it to weigh against me as a ground for supporting this charge?

But I have a greater authority, which I hope I shall not be thought presumptuous in claiming—it is that of the Parliament of Great Britain.

Such was the temper of the times in Calcutta, when in 1780 the petition of the British inhabitants was presented to Parliament, that it is observable the name of the gentleman from whom that petition was nominated, Mr. Samuel Touchett, was one of the jury on the trial of Nundcomar, and one of those who, though solicited, refused to apply for a respite; yet it is an object of that petition to transfer the power of respiting from the judges to the Governor-general and Council, with a clear reference to this case.

In this factious concussion of sentiments, though a Director, who in 1765 had himself found an indictment on the 2d George 2, c. 25, did in 1777 sign a letter, as being alarmed that the same statute had been put in execution in 1775;—though a juryman, who in 1775 had found a verdict on that statute, and was so clearly convinced of the propriety of carrying it into execution, that, though strongly solicited, he absolutely refused to apply for a respite, did nevertheless petition, in 1780, to have the power of respiting transferred from the judges, for enforcing that very verdict; though the Directors, who in 1766 had specifically directed that statute to be enforced, were alarmed, in 1777, that it had been enforced;—though the majority of the council, by a public act, had burnt a paper, as libellous and false, in 1775, yet had by subsequent secret representations given cause to believe, that the contents of that paper so condemned contained their real sentiments;—the Parliament of England, judging coolly and dispassionately, with the whole evidence before it, was so far from being of opinion that the judges had acted criminally on the trial, or rashly, in not granting the respite, that although strongly urged to take away the power of respite from them, it has affirmed the act of the court, by refusing to make it part of the statute in 1781, made to limit the jurisdiction of the court, and has thereby continued that power in the judges to the present time.

Having been charged as an individual, I have thus far defended myself as an individual; and submit that my defence is sufficient, though the acts ascribed to me alone had in truth been my separate individual acts.

But though called to answer as for acts done by me singly, those acts not only were not, but could not, have been done by me individually: I was one member sitting in a court, consisting of four members; all the four members concurred in the acts imputed to me; my voice singly, and by itself could have had no operation; I might have been over-ruled by a majority of three to one.

I was not more concerned in the proceedings than any other judge; I was less so than two [Justices Le Maistre and Hyde]. Informations had been laid against the criminal before two of the judges, who, by committing him for felony, had applied this law to his case without my knowledge or privity. I was, indeed, applied to by the council as to the mode of his confinement; I had no right to revise the acts of the judges, their authority was equal to mine; I did what humanity required; I made the strictest inquiries of the Pundits, as to the effect of his imprisonment on his cast and religion; I learned they could not be hurt. I gave directions to the sheriff, that he should have the best accommodations the gaol would afford; the gaoler and his family quitted their apartments, and gave them up to him; I directed that every indulgence, consistent with his safe custody, should be granted him. These only were

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my individual acts, and these appear on the report of your committee.

If it had been just so to do, it was not I, but the court, which must have afforded protection to the criminal, because the accuser of Mr. Hastings; it was not I, but the court, that must have quashed the indictment; it was not I, but the Court, which retained the prosecution; had sir Robert Chambers been over-ruled, it was not I, but the court, that could have over-ruled him; it was not I, but the whole court, that rejected the appeal (if there was an appeal), that refused the respite, and carried the sentence into execution.

All signed the calendar; I executed no act of authority as a magistrate, but sitting in open court, assisted by all the judges; even those acts which are peculiarly objected to me, as mine individually, though I was the proper channel of the court to pronounce them, are not my individual acts. As chief justice, I presided in the court, was the mouth of the court; all questions put, or observations made by me, were with the judges sitting on my right hand and on my left; those questions, and those observations, were not mine, but the questions and observations of the court. I did not presume to make observations in my summing up to the jury, without having first communicated with the judges, and taken their unanimous opinion on every article, the summing up therefore the evidences, and the observations made on the evidence to the jury, were not my summing up, and my observations, but those of the court. Had I not communicated with the judges, yet their sitting by and approving them would have made them the acts of the court. The opinion of a court of justice is collected from the mouth of the chief justice and the silence of the other judges, as well as from the records of the court; and in this case more strongly, for records may be, and frequently are, the acts of a court divided in opinion; a judgment delivered by the chief justice alone, must be the unanimous sense of the court.

As no act is imputable solely to me, so there is no motive in the whole charge assigned for my conduct that is not equally applicable to every other judge; nor is there one allegation that exonerates the other judges, and applies them specifically to me; if they are true with regard to me, they are true as applied to every judge of the court.

The notoriety of the injustice of the proceedings applies to all, and gives an equal ground of conviction, that all the judges were in a combination to sacrifice an innocent man, for the purpose of screening Mr. Hastings from justice; all must have shown an equally determined purpose against the life of the criminal; all had equal knowledge of the accusation, the proceedings in council, and the conduct of Mr. Hastings; all knew equally the credit of the witnesses, the conduct of Kissen Juan Doss, and the infamy of the unnamed witness.

There is no stage of the business where they are not all as much implicated in the motives as I could be; yet I alone am called to answer, whilst they, if this charge be true, are administering justice in Bengal, notoriously branded with infamy, and still judging on the lives of men with hands stained with blood.

Though I say this as necessary to my defence, I most solemnly protest, and most anxiously request, that it may clearly be understood that I do not entertain the most distant wish that any judge of the Supreme Court should meet with the same fate which I have experienced, after long and faithful services in so inhospitable a climate in their decline of life, and be dragged from their tribunals, to appear as criminals at this bar.

Respect for their character, and friendship for their persons, whom, in my conscience, I know not to deserve so harsh a treatment, would reprobate so unjust and so malignant a wish. But I may, without prejudice to them, deplore, that though aided by their reasons for concurring in the proceedings of the court, thus separated from them, and called upon as I am, I cannot be armed by their reasons in my defence. Though my arguments feebly enforced may fail of success, yet, if urged more forcibly by them, and with such addition of others as their learning and ability might supply, they might operate to conviction on the minds of my judges; and should I be so unfortunate as to be thought impeachable for these joint acts, they on better reasons shown may be exculpated.

Had they been joined with me, I should have had a right to avail myself of their reasons as well as my own. It is hardly conceivable that any man, whose constant habits of life have been known to be such as mine have been (and there are not wanting members in this House who know

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both how and with whom the earlier part of my life, down to the time I quitted this country, had been spent): that I, a man, I will assume to say, who left this country with a character at least unimpeachable, who maintained that character till May 1775, should, in the course of the next month, have been so totally lost to every principle of justice, every duty of office, every sense of shame, every feeling of humanity, to have been so deeply immersed and hardened in iniquity, as to be able deliberately to plan and steadily to perpetrate murder, with all the circumstances with which it is here charged and aggravated. *Nemo repente fuit turpissimus.* But if the minds of men, besieged by constant repetitions of the same slander, laboured into them daily and hourly, by perpetual and unremitting libels, assailed by base whispers in private, and the malicious clamours of faction in public, can, with regard to me an individual, have been prepared to admit the belief of a fact so strange and so unnatural; yet had four judges been now ranged at this bar, all men of unimpeachable characters, down to the same period of time, all charged with the same sudden loss of virtue, and violent precipitation into the most abandoned guilt, all charged with the same deliberate purpose, the same steady, cool, unrelenting execution of so foul a crime; it would have struck the eyes, as well as the reason, of the House: common sense would have revolted at it; it must have been pronounced impossible.

After what I have disclosed to the House, I trust in my single case also it will be pronounced equally impossible. I have been too long; I have had great indulgence, I fear I have abused it too much; I will make no recapitulation; but if the judgment was legal, if no justifiable grounds could be assigned, either of grievance to allow an appeal, or of favour to recommend to mercy; if the matters of the reports do not supply competent evidence to support the article; if the public opinion formed on libels, and misled by false authorities is no ground for impeachment; if the opinions of the Court of Directors, and the majority of the council in Bengal, fairly discussed, operate not in support, but to the defeat of this accusation; if I am accused of no act but what was a judicial joint act of the whole court, consisting of four judges; if no act is charged on me but what is equally chargeable on the other three judges: if no motive is imputed to me but what is equally imputable to all the judges; if the whole was in the ordinary course of justice, and there be, after every scrutiny, no evidence of any undue motives: I now, Sir, finally submit with perfect resignation to the judgment of the House, whether, at the distance of thirteen years, during nine of which, after the commission of the supposed offence, I have been permitted to preside in the Supreme Court, when, by lapse of time, I must necessarily have been deprived of material living evidence, and by just inference, from the having been called to answer a specific charge of a less heinous nature, for a fact subsequent to this, by seven years, I have been prevented from bringing evidence from Bengal, under all the circumstances with which I have fatigued the House, it be consistent with its candour, wisdom, and justice, to put me alone, at the bar of the House of Lords, to answer criminally for the judicial acts of an unanimous court.

Having now gone through his Answer to the first Charge, sir Elijah was directed to withdraw.

Mr. *Pitt* then proposed, that as the learned gentleman must have been greatly fatigued by so long a defence, and as the House was exhausted, the farther hearing of sir Elijah Impey be adjourned to Thursday.

Mr. *Burke* said, the learned gentleman appeared ready to go on, but throughout the whole proceeding, he hoped the patience of the House would at least be equal to the strength of the learned gentleman.

Mr. *Pitt* desired that sir Elijah might be called in, and asked whether he had minutes in writing, of what he had said, and was desirous of delivering them in, to lie upon the table.

Sir Elijah Impey being again at the bar, the Speaker asked him if he had any minutes in writing of what he had now offered, which he wished to deliver in to the House. Sir Elijah answered, that he had no such minutes.

Mr. *Burke* expressed his regret, that when they came to proceed upon the business, there was no specific written defence to combat and encounter the specific written charges upon their table. A defence so fugitive, that it must depend upon memory alone, was a very awkward circumstance, and would subject them to great inconvenience.

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Mr. *Pitt* desired that, in the commencement of a business of such a nature, no insinuation of that kind might be suggested against a person who had been at the bar on his defence.

Mr. *Fox* said, it was perfectly fair and candid in his right hon. friend, at that early period, to state a matter, which, if suffered to pass unnoticed, it might afterwards be deemed rather invidious to mention. It was undoubtedly to be lamented that sir Elijah had not a written copy of what he had said to present at the table.

Mr. *Pitt* said, he had not questioned the candour of the right hon. gentleman; but had conceived what he had said, as amounting to a declaration that sir Elijah had no defence fit to put upon the table, and such an insinuation as that, in so early a stage of the business, appeared to be too invidious for him to let it pass without a comment.

Mr. *Burke* said, that the right hon. gentleman had shown great heat, even in the moment whilst he recommended coolness. He had regretted, and did regret, that there was no written defence to oppose to written charges, more especially when that defence began with an extract from one of the reports of their Committees, which had been argued that the Committee thought the evidence not good evidence. Mr. Burke mentioned the great pains that the Committees had taken, and said though he should be ready to hear any thing sir Elijah had to say, his mind was in a manner made up upon the subject, and not quite a carte blanche.

Mr. *Pitt* said, the right hon. gentleman had now told them, what he was surprised indeed to hear him say, viz. that his mind was completely made up upon the subject, so that whether the defence was written or not, it mattered not to the right hon. gentleman, since his mind was finally and irrevocably made up.

Mr. *Burke* charged Mr. Pitt with having been extremely personal, and having grossly misrepresented his words. He had not said that his mind was totally made up, so as to be capable of receiving no conviction from evidence: but it would be strange indeed, if after having been instrumental in moving the recall of sir Elijah from Bengal, and on another occasion solicitous that the right hon. gentleman should prevent his being permitted to return to India while his conduct remained uninquired into by that House, his mind should not be pretty well made up upon the subject.

Mr. *Pitt* said, he had not misrepresented the right hon. gentleman so much as he had misrepresented himself; for nothing could be more different than his former words, and the explanation which he had just given of them.

Mr. *Fox* denied that his right hon. friend had used the words imputed to him. He had neither said, his mind was made up completely, nor finally, nor irrevocably, but that his mind was in a manner made up; and he had added, more fully to explain his meaning, that it was not quite a carte blanche. Mr. Fox said, he should all through the proceeding argue upon the prepossession that sir Elijah was guilty; and therefore, although the not giving in a defence in writing did not amount to a proof, or any thing like it, of guilt, it was fair to consider it as a prepossession of guilt.

Mr. *Kenrick* said, he could account for the defence not being in writing. To his knowledge, sir Elijah had not entertained the idea of coming to the bar but a few hours before he had presented the petition, desiring that sir Elijah might be heard.

The farther hearing of sir Elijah Impey was adjourned to Thursday.

Feb. 7. The order of the day being read, for the farther hearing of sir Elijah Impey,

Mr. *Francis* rose for the purpose of making a motion, previous to sir Elijah's being called in. He observed that this gentleman had, on the preceding Monday, produced and read a paper purporting to be the translation of a paper drawn up in Persian, and sent from Nundcomar to general Clavering before his execution. That paper was rather of an accusatory than of a defensive nature, and had been so considered by all who heard it, and the observations made upon it bore extremely hard upon general Clavering, col. Monson and himself. As he therefore solemly pledged himself to the House at the proper time, to answer and refute the stigma that was attempted to be fixed upon him by that paper, he meant to move that it be laid upon the table. This he conceived, he had a right to claim *ex debito justitiæ*, and he supposed there would be no objection to the motion, as the original paper in the possession of sir Elijah was the only one in existence. He concluded with moving, "That sir Elijah

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Impey be required to lay before the House the original paper read by him at the bar on Monday last, and purporting to be a translation of a petition from the late Rajah Nundcomar, which was laid before the Governor-general and Council by the late sir John Clavering, in August 1775."

The *Solicitor-general* contended, that it would be contrary to every principle of justice to strip sir Elijah Impey of an original document, which he considered as essential to his defence. He argued upon the glaring injustice of taking away from an accused person any part of the means of his defence, and contended, that the circumstance of the paper in question being the only one in existence, made the case still more harsh and unjustifiable. Possibly it might be right to call for a copy of the paper, but even whether that would not be going too far, he had his doubts; because every person accused ought to be master of his own defence, so far as to have it in his power to reserve all his documents till such an occasion presented itself as the prisoner should think the fit one, for him to make the most advantage of the papers in his possession.

Mr. *Francis* answered, that he could not perceive, without astonishment, the least resistance made to the delivery of a paper which *ex debito justitiæ*, he had a right to claim. He was as far from wishing to strip sir Elijah of the means of his defence as the learned gentleman; but he saw not how the suffering the paper to be laid upon the table could be called stripping an accused person of the means of his defence. He asked for no disclosure of any fact reserved and kept back by sir Elijah Impey for his future defence. The paper had been originally disclosed to the House by sir Elijah himself, and commented upon in a manner that tended to criminate him and those who had acted with him. He had a right therefoere to require that it might be delivered in at the table. The paper would not, by that means, be beyond the reach of sir Elijah. The reason why he called for the original paper was, because sir Elijah had stated at the bar, that it was delivered to him by Mr. Hastings, and that it contained alterations in his hand-writing. He wanted, therefore, to see what those alterations were, which he could not unless the original paper was deposited on the table. Gentlemen might rest assured, that he should have more to say upon that paper than they were aware of [a laugh]. Some hon. members might make him the object of laughter, and endeavour to run him down; but he knew his cause was good, and he would persevere to maintain it at the hazard of every thing dear to him, in defence of his own honour, and the memory of general Clavering and col. Monson. He lamented the unfortunate event of his ever having gone to India, where he had sacrificed every thing to his duty; and, on his return to this country, what had been his reception? Instead of being thanked for his conduct, instead of being supported, he was made the object of party rancour and ill treatment. Last week there was not a man in the kingdom who did not think the conduct of sir Elijah Impey highly criminal; but all on a sudden, the tone was turned, and nothing but tenderness to sir Elijah was talked of; the other side appeared like a phalanx, whole bands of the learned gentlemen, even judges themselves, came down to support him, to greet him with early cheers, and encourage him with the smiles and the halloo of government. [A cry of Order!] He said he would endeavour to restrain the ardour of his temper, and return to the main object, the paper for which he had moved. He then renewed his arguments on that head, and concluded, that he should be unjustly treated if, after having heard himself stigmatized and criminated before the House by sir Elijah Impey, he was not allowed to call for the paper upon which it was grounded, in order that he might be able to answer it.

Mr. *Pitt* said, that the hon. gentleman had used a sort of language which he hoped he never should again hear, without feelings of repugnance and abhorrence. What! when a man accused of charges of a nature in the last degree heavy and flagrant, was for the first time upon his defence, was it to be said that no tenderness ought to be shown him? There was not, he was persuaded, a gentleman possessed of the smallest regard for justice, who could listen with patience to such a suggestion; but, not contented with that, the hon. gentleman had thought proper to throw out a variety of imputations that were altogether unwarrantable. He was free to confess that he, for one, should be extremely glad, if the paper could be put upon the table, but that must, in his opinion, depend altogether on the will of sir Elijah Impey. If that House were to compel a person accused to part with an

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original document that he relied upon as material to his defence, or even oblige him to produce a copy of it, it would prove a violation of every principle of justice. They certainly had no more right to force a person accused to divest himself of any part of the means of his defence, than they had to put a criminal to the torture; and therefore, he conceived the proper way would be for the question to be altered, and that the Speaker should ask sir Elijah if he had any objection to deliver in a copy of the paper in question.

Mr. *Fox* said, that the right hon. gentleman had grossly misrepresented his hon. friend, by charging him with what he did not say, as most undoubtedly he had never said, that no tenderness ought to be shown to sir Elijah Impey. He would not agree that his hon. friend had no right to call upon sir Elijah for the paper. In his mind, he had a right to have the paper upon the table, and not merely to ask it as a favour, but to demand it as a right. Mr. Fox added, that from the moment he understood a written copy of the defence was not to be delivered in, he had entertained a very indifferent opinion of that defence, and considered it as a strong prepossession against sir Elijah. In like manner, if the paper referred to in the motion, was refused to be laid upon the table by sir Elijah, either the original, or a *fac simile*, or something of that nature, he should lay it wholly out of the case, and the House ought not to consider its contents as matter that had ever been mentioned in their hearing.

Mr. *Farrer* said, that he had a variety of papers in his possession, which he had shown to no person but sir Elijah Impey, and he had long hesitated before he could embrace this measure. He expected to be examined as a witness, and was ready to produce them. He mentioned that sir Elijah had declared at the bar, that a copy of every paper he referred to, was in the hands of Mr. Kenrick, a member of that House. The hon. gentleman might therefore possibly have the papers still.

Mr. *Pitt* rose again, and moved, as an amendment to the question, "That sir Elijah be asked whether he has any objection," &c. instead of "that sir Elijah be required to deliver, &c."

Mr. *Burke* insisted on the propriety of requiring sir Elijah to produce the paper. It would, he said, be a disgrace to the House, to suffer a delinquent to make use of a paper in his defence, and not vouch for its authenticity by producing it. He warned the House not to admit a precedent of that nature. Any idle tales might thus be given in defence, and might make an impression on the hearers, while the vouchers were not demanded. He hoped, however, that the paper referred to would be considered as if it had not been at all mentioned by sir Elijah, provided it were not produced. It struck him as somewhat remarkable that it should be thought a hardship to be required to produce a paper, which had been voluntarily offered in evidence, and which was brought forward as a matter of recrimination on a member of that House.

The *Master of the Rolls* begged leave to remind Mr. Francis, that he had, on a former occasion, declared, that on account of having been so much concerned with sir Elijah Impey in India, he would not give any vote as a judge respecting him. If that expression meant any thing, it was, he conceived, that the hon. gentleman would not take an active part in the prosecution of sir Elijah; perhaps, therefore, it would not have been a breach of modesty if he had not sat there and acted as he had done; not that he meant to say there was any thing criminal in his having done so. With regard to the paper, sir Elijah certainly could not be compelled to deliver in any document that he had referred to as a part of his defence; but if he was called upon to produce a paper that he had read, and deliver a copy of it in to the table, and refused, then, most undoubtedly, that paper and its contents ought to be no more attended to, than if either the one or the other had never existed. What, however, he rose for principally was, to state, that, as he entered the House, the word 'judges' caught his ear, and when he sat down he heard the hon. gentleman talk of bands of learned gentlemen having come down to support sir Elijah Impey. Now, although, he had no reason to doubt the truth of the panegyric passed upon the hon. gentleman by the right hon, gentleman near him (Mr. Fox) and another hon. gentleman (Mr. Windham), for whose character he had a very great respect; yet, if the hon. gentleman was that immaculate person which his friends had described him to be, if he stood so much beyond all other men, so far aloof from all suspicion, it surely would become him not to be overforward to charge bad intentions upon other men, and in the very moment that he was complaining of a paper referred to

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in the course of sir Elijah Impey's defence, as containing accusatorial matter, and matter criminatory to him, be himself the person to criminate others, and even a whole profession, without any cause. So far from having acted as a partizan, he had taken no part whatever in the business, nor should he, till he was enabled to judge what was proper to be done in it, by having heard both sides of the question.

Mr. *Francis* admitted, that he had formerly said, he would not give a judicial vote on the business; by that declaration he meant to abide; nor should he have taken the part he had done that day, had he not been forced to do so in his own defence.

Mr. *Kenrick* declared, that when sir Elijah was at the bar on Monday, he had all the papers that he then referred to; but not choosing to keep papers of such importance in his possession, he had delivered them to sir Elijah when the House rose. With regard to the paper in question, containing matter accusatorial of Mr. Francis, he did not conceive that sir Elijah produced it with that view, but as a necessary part of his defence, inasmuch as it proved, that the council board concurred with him in regarding Nundcomar as a fit object for execution.

Mr. *John Scott* considered it as very improper that the original paper should be required of sir Elijah, but had no particular objection to the production of a copy of it, provided sir Elijah himself was inclined to produce it. If he did not choose to produce it, it then undoubtedly ought to have no weight with the House. It was incumbent, he thought, on Mr. Francis to deny the truth of what sir Elijah had ascribed to him, before he called for any papers which he conceived to be accusatory. One circumstance suggested itself to him in this business, as a matter of doubt, namely, whether the conduct of the council, as mentioned in sir Elijah's defence, was not equally deserving of impeachment with that of the judge.

Mr. *Pitt* said, that he by no means objected to a copy, if sir Elijah was willing to give it.

Mr. *Fox* said, that nothing could be more absurd than the idea, that a person accused should be called on to deny the truth of a charge when he wished to have a paper produced that might throw light upon the subject.

Mr. *Hardinge* expressed the satisfaction with which he had listened to the defence of sir Elijah Impey, and observed that it undoubtedly was optional with him, whether he would give the paper or not. For his own part, he was one of those wicked judges who would always suffer a person upon trial to state every fact and every assertion that he thought likely to aid his defence, without obliging him to exhibit or substantiate any one of them. He knew the nature of evidence too well to be ignorant that the whole lay upon the distinction between facts and assertions adduced and not adduced. When a prisoner, after the delivery of his defence, called witnesses to establish the facts, that part of the defence was to go to the jury; but all the rest a judge who knew his office would not state to the jury in his charge. It seemed to him to be clearly admitted that the copy could not be insisted on; and it was generally agreed, that unless it was produced, it merited no weight.

Mr. *Burke* rose for the sake of information previous to his appearance at a place where such information would be very necessary. He wished to know how far papers could be argued from, which were not proved to be authentic, and what evidence would be admissible, and what not.

The *Master of the Rolls* answered, that in the place to which the right hon. gentleman alluded, the Judges would be ready to give their opinion upon such evidence as might be brought forward. Upon all disputed points the law would be pronounced from the Woolsack, and what was so pronounced must be considered as law.

Mr. *Burke* said, that he must take the liberty to contend against the idea of the learned gentleman, that what by the Judges would be pronounced law must be considered as such. He had contended, and with success, against the unanimous opinion of the Judges, and should again contend against their determination, if he thought that determination wrong. The learned gentleman, he thought, held too high an opinion of the determination of the Judges; and though he might be eagerly looking to become one of that body, he sincerely hoped the learned gentleman might continue some time longer in his present probationary state, as it were, performing quarantine, for the benefit of his health and constitution, that when he became elevated to the desired situation, he might carry with him clean

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and indisputable bills of health to the learned bench.

Mr. *Adam* insisted upon the right of requiring sir Elijah Impey to give in a copy of the paper alluded to. He referred to the practice of Westminster-hall and the Old Bailey, and adduced legal analogies in support of his opinion.

Major *Scott* said, he thought sir Elijah ought to produce any paper that he had read, and he firmly believed that he would not have the smallest objection to do so. For the last four hours, said the major, we have been talking without any difference of opinion. The hon. mover had very artfully, however, dwelt much upon a circumstance which was not of the smallest consequence, while he totally omitted that very material fact which had made such a strong impression upon every man who had read it—I mean the debate of the Council-board at Calcutta, when Nundcomar's letter was first produced, the day after the Rajah's death. Upon that occasion, the hon. gentleman solemnly declared the charges against the judges were unsupported, and he moved, that the paper itself should be burnt by the hands of the common hangman, as a libel. The world knows the part which the hon. gentleman had taken against sir Elijah, and they were struck with astonishment when they understood that he had given so different an opinion in August 1775. Whether the paper was a strong libel, or a weak one, is a matter of no moment. It is sufficient that the hon. gentleman thought it a libel upon the character of the judges, and, as such, that he recommended it to be burnt. To give the House complete information, I think the gentleman's minutes, as well as Nundcomar's letter, ought to be produced.—And now, Mr. Speaker, as I am up, let me say one word in reply to the elegant panegyric which a right hon. gentleman has pronounced upon the character of his hon. friend. Not content with praising him in this House, he has joined with nineteen other gentlemen in circulating his panegyric to the world in a morning paper, where I read a few days ago a most envious letter addressed to Mr. Francis.—[See p. 1334.)—Before I join in applauding the integrity of the hon. gentleman, I require it to be proved by the only possible way in which his integrity can possibly be proved. Let him come fairly, boldly, and honestly forward, as lord Macartney has done; let him state that he left England in debt a few years ago; that he was six years only in India; that his expenses at home and abroad were so much, and his fortune barely the difference between the amount of his expenses and the remainder of his salary. When the hon. gentleman shall have done this, I will join the Committee of impeachment with cheerfulness, in pronouncing Mr. Francis to be one of the honestest men that ever came from Bengal; but until he shall submit to this only true test of his integrity, I shall pay no attention to the animated panegyrics of his friends.

Mr. *Fox* rose again to declare that he could not agree to the amendment, as it would be forming a dangerous precedent in the judicial proceedings of the House.

The question of the amendment was then put on which the House divided, Yeas, 107; Noes, 44.

Sir Elijah Impey was then ordered to the bar, and being accordingly come, accompanied by a gentleman, the Speaker informed him, that he was directed by the House to ask him whether he had any objection to produce a copy of the petition of the late Rajah Maha Nundcomar to the Supreme Council, presented by the late sir John Clavering, and which petition he had referred to in his answer to the charge of Nundcomar. Sir Elijah Impey answered, that he had no objection. The Speaker then, by desire of the House, asked him whether he had a copy with him? Sir Elijah answered, that he had not, but that he would on the morrow present a copy. The Speaker then informed him, that he was desired by the House to proceed in his answer to the remaining charges.

Sir Elijah Impey now prefaced his address to the House, by complaining of having been attacked in some daily prints of that and the preceding day, respecting the answer he had given in to the first charge. Several printers, he said, had offered their services to him, but he never had paid any attention to them, being fully determined in his own mind to give no answer to charges exhibited against him through those channels, and resolved to reserve himself to answer to that House. He now prayed the House to protect him from the attacks of the papers during the continuance of his defence. He knew not how to claim that protection, but he doubted not it was in the power of the House to grant it. The attacks he alluded to, were made in a pamphlet; in a morn-

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ing print of Wednesday; and in another print of Thursday.

Mr. *Grenville* moved, "That sir Elijah Impey do withdraw," and he being withdrawn, Mr. Grenville said, he was sorry that the complaint had been made to the House; but as it had been formally made, it was, in his opinion, impossible for the House to pass it over unnoticed. Wishing it therefore to be considered, and at the same time anxious to prevent its interrupting the business before the House, he moved, "That the matter of the said complaint be taken into consideration to-morrow."

The motion being agreed to, Mr. Grenville next moved, "That sir Elijah Impey do attend this House to-morrow with the papers, and pamphlet of which he has now complained." This motion being also carried, sir Elijah was again called to the bar, and informed by the Speaker that his complaint would be considered upon the morrow, and that he was to attend with the papers.

Sir *Elijah Impey* then proceeded on his defence. He said, he recollected two points of the charge of the murder of Nundcomar that he had omitted answering when he was last before the House; the first, of the Rajah's being brought by force to Calcutta; and the second, that he, a Brahmin, had been executed upon a law unknown to the Gentoos. To the first he answered, that Nundcomar so far from being kept by force at Calcutta was actually there voluntarily and at large. To the second, he said, that in searching records, he had found that in 1766, and under the administration of a gentleman then in the House, a Brahmin had been executed, and the sentence had been approved both by the Gentoos and the Supreme Council. The criminal laws of England had been carried into execution by the 26th of George 2, for the extension of which laws to India, the Hindoos returned thanks to this country.—After having made these additional observations on the last charge, sir Elijah entered on the Patna charge, in answer to which, he said, many of the arguments he had before made use of would apply. He gave proof of the concurrence of sir Robert Chambers, who had promised to write a preface to the trial, but had been prevented by a bilious complaint. He proved that it was by order of sir Robert that the excessive bail had been taken with which he stood charged, and that every proceeding of that trial was as much the proceeding of the whole of the judges of the Supreme Court as of his own. He asked, whether it was supposed, that by accumulating charges on him charging him with the transactions of others, that he would be induced to fly his country? Was it supposed that he would not come forward to refute them? Could it answer public justice, to bring forward such a mass of misrepresentation and falsehood? Had the charge gone to the Lords, would not the document he held in his hand (the bail demanded by sir Robert Chambers) have quashed it? It certainly would, and he most certainly would stand forward in refutation of the whole of the charges. He had much at stake, and though it was his duty and his wish to preserve his fortune for the provision of his children, of whom he had ten, he would sacrifice that fortune to the preservation of his reputation. No child of his should have cause to be ashamed to own him for his father. After some farther observations, he added, that if he was to be impeached, it would necessarily follow in justice, that the other three judges of the court should also be impeached, for what he had done was with the concurrence of the other judges who sat on the bench with him. He concluded, by praying the indulgence of the House for the answer he had given to the Patna cause, which was far from being to his own satisfaction.—Sir Elijah then withdrew.

Mr. *Pitt* then moved, "That the Speaker should ask him, whether he wished to be heard on the remaining charges?"

Sir Elijah being returned, the Speaker put the question to him accordingly, when he observed, that his mind was so deranged by the charge of the legal murder of Nundcomar, and his health, in consequence of this circumstance, so much affected, that he found it almost impossible to exert himself in his defence to the other charges, before the charge of Nundcomar was decided. That being the charge of the deepest cast, he had fixed his attention upon it, and exerted himself to give it the fullest answer. He considered the others lightly, and should have no objection to suffer them to go to the Lords, subsequently to the decision of the first. He should be greatly obliged to the House, if it was not contrary to their rules, nor attended with any inconvenience, to proceed on that charge as speedily as possible.

The House complied with sir Elijah's

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request. It was then agreed, that the House should again resolve itself into the committee on Monday next.

Debate in the Commons on Sir Elijah Impey's Complaint of Sundry Libels published against Him.] February 8. On the order of the day being read, for taking into consideration the matter of the Complaint made yesterday at the bar by sir Elijah Impey, and for his attendance with the Papers and Pamphlet of which he then complained, sir Elijah was called in, and at the bar, delivered in to the House two newspapers, the one intituled, "The Morning Herald, Wednesday, February 6, 1788," and printed by W. Perryman, at No. 18, Catharine Street, in the Strand; the other intituled, "The Gazetteer, and New Daily Advertiser, Thursday, February 7, 1788," and printed by M. Say, at No. 10, in Ave-Maria-Lane, Ludgate-street. And sir Elijah Impey informed the House, that Mr. Debrett, the publisher of the pamphlet which he yesterday complained of to the House, had, this morning, given him assurance that the publication thereof should be immediately put a stop to; and that therefore he did not desire to persist in his complaint against the publisher of the said pamphlet. Sir Elijah having withdrawn,

Mr. *Grenville* rose. He said, that the newspaper misrepresentations of the proceedings of that House had of late been very frequently complained of, and that possibly, unless some notice were taken of them, they would grow to such a head, that it would not be in the power of the House to stop them. He would not then discuss the wisdom or the policy of taking such measures for their prevention, as should effectually put an end to their future progress, but would just make a few observations necessary to be considered on the present occasion. It had generally been deemed most expedient for individual members of that House to pass over the freedoms daily taken with their names, and treat them with indifference. Unless in very enormous instances, a variety of reasons might be alleged in illustration of the good sense and propriety of this practice. In the first place, gentlemen had the testimony of their own consciences to support them, and while they were satisfied that they acted from good and virtuous motives, the imputation of undue motives only merited their contempt; or, if what they said was misrepresented, the mistatement could not be of long duration, as every gentleman had it in his power, in a very short time, to do himself justice in the most effectual manner. There were other obvious arguments that might reconcile individuals to the liberties taken with their names and characters; but he had great doubts, whether the same arguments would apply to the House collectively. It was of importance that the people should look up to that House with respect and confidence, and on that account, it might be extremely inexpedient ever to pass over the attempt to weaken that confidence, or diminish that respect.—But there was a third point of view in which the House could not consistently assume any discretion whatever, and that was the sort of case then under contemplation. The case of a person answering at the bar to different charges of high crimes and misdemeanors, who, while his defence was pending, had found it necessary to claim the protection of the House against the attacks of libellous writers in the newspapers, and had formally complained of two specific libels, which he had that day, exhibited, and which he had just read at the table. Having expatiated on these three distinct views of newspaper libels, affecting the proceedings of the House of Commons, and improperly interfering with them; and on the peculiar case of sir Elijah Impey, who had been sent to India thirteen years ago, in an office of great trust and confidence, and had been brought back to answer to charges, of which, if it should appear that he had been guilty, he was the greatest criminal in existence. Mr. Grenville observed, that in a few days his guilt or innocence was to be decided: he next dwelt upon the dangerous effect that a temporary libel might have upon sir Elijah's cause, and the necessity of keeping the minds of those who were to determine unbiassed and free from prejudice. Having urged this point, as well as sir Elijah's right to claim the protection of the House, Mr. Grenville proceeded to advert to the sort of punishment usually resorted to by the House, whenever it felt it necessary to exert its authority for the maintenance of its own dignity, and the defence of its privileges. That the House had an inherent constitutional right of punishing those who violated its privileges, or treated its authority with contempt, and that it made

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a part of the common law, no man could be ignorant. On the present occasion, however, it was not his intention to exercise the powers of the House. At a period, when the judges of the courts of law were dependent on the Crown, when the source of justice was foul and corrupt, and when the improper exercise of the prerogative was to be dreaded, that House had wisely and judiciously made use of its own power to punish those who ventured to incur its displeasure; but the times were now different, the judges had been made independent of the Crown, and had nothing to expect and nothing to dread from that quarter. The courts of law, therefore, were pure, and free from all colour of suspicion. It was, for that reason, better to have recourse to the law of the land in cases like that before them, than to the law of Parliament.—Mr. Grenville next reminded the House of the sense the Court of King's-bench had already expressed of the impropriety of publications relative to any matter in process, or likely to come to trial, by mentioning the case of the justices in Bow-street, against whom the late Mr. Wallace moved the Court for an information, for their having published accounts of the public examination of the prisoners, when the Court declared the justices were liable, because such previous publications might prejudice men upon their trial. He stated this to show, that the mode of prosecution which he proposed was that best adapted to the nature of the case, and concluded with moving, "That the said papers contain a scandalous libel, grossly reflecting on this House and the members thereof, and tending to prejudice the defence of a person answering at the bar to Articles of High Crimes and Misdemeanors against him by a member of this House." Should this motion be agreed to, he would move to address his Majesty, that he would give orders to the Attorney-general to prosecute the authors, printers, and publishers of the papers complained of in the Court of King's-bench.

Mr. *Fox* remarked, that he could not avoid expressing his agreeable surprise to hear an argument in favour of the authority and of the privileges of that House come from the quarter from which it had proceeded. He was glad to find that those who had got into power by sinister means, who had obtained their situations in direct contempt of the confidence of the House of Commons, after they had been some time seated, thought it necessary to kick down the ladder by which they rose, and affect at least to treat the House with becoming respect, and to talk of the necessity of that House always preserving the confidence of the people. In what manner, however, had the right hon. gentleman now proposed to enforce the authority of that House? He had stated that the House of Commons possessed an inherent, constitutional right of punishing those who committed a contempt, or were guilty of a breach of its privileges. Such a right the House undoubtedly possessed, and if ever there was a case that particularly called for the exertion of it, this was the very case. He was ready to admit, that the publication complained of, was a very irregular and improper interference with the proceedings of that House. It ought, therefore, to be taken notice of: it ought to be punished. But how? Not in the way the right hon. gentleman had proposed, not by address to his Majesty, to order his Attorney-general to prosecute, but by an exertion of their own powers, and their own powers only.—Mr. Fox analysed the article complained of, and asked, if it contained any general libel on the government of the country, or any thing of a public nature, that pointed out prosecution in the court of King's-bench, as the fit and proper mode of prosecution? The whole drift and tendency of it was to interfere with the proceedings of that House, touching the defence of sir Elijah Impey. Why, then, would the House, in a case so immediately relating to its own concerns, appeal to the Crown for aid? It was a curious inconsistency for the right hon. gentleman to argue upon the constitutional powers of the House, to assert its own rights and maintain its own privileges, and then in a case of breach of privilege, and breach of privilege purely, to abandon those constitutional powers, and resort to the powers of the Crown.—Mr. Fox contended that such an improper mode of prosecution led much farther than gentlemen possibly imagined, and might ultimately carry their privileges, the privileges of the House of Commons, to be decided upon by the House of Lords! He commented on the eagerness to prosecute which had in this instance been evinced, and said, the House had not shown as much attention to its own members as they had done to sir Elijah Impey. Were not their own committees equally sacred? and yet they well knew, that libel

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after libel had been published against the reports of their committees, and they had all seen a bill of charges for the insertion, in a public news-paper, of a series of libels on the proceedings of that House, and on the conduct and characters of several of its members.* With regard to the article at present complained of, he should hardly think that, had the argumentative part of it merely appeared, any man would have thought of moving a prosecution. The improper phrases with which it was accompanied, and the indecent comments upon the proceedings of that House undoubtedly he should not have used, nor ought they to be countenanced; but the argumentative part, that about the jurisdiction, he had no scruple to say, coincided nearly with his own opinion. He urged the necessity, in a case so peculiarly their own, to keep it within their own jurisdiction; and reminded the House that when once they committed the prosecution to the law courts, they had no farther command of it, and however inclined they might be to show lenity, they would not have it in their power. He asked if any person could tell him that a breach of the privileges of that House could be made a count in any information or indictment? He declared he believed that it could not, and contended against the absurdity of punishing the contempt of one court in another court, and of adopting that mode of prosecuting a complaint which was of all modes the least adapted to the nature of it. Mr. Fox also hinted at the late sentence against lord George Gordon in the court of King's-bench as being inordinately severe, and assigned that, among others, as a reason why that House should not be too eager to carry its contempts into Westminster-hall to be punished, when it was generally admitted, that they had the power of punishing them in their own hands.

Mr. *Jolliffe* said, that the motion was highly improper, and that public animadversions were, in his opinion, exceedingly useful. Those who acted in a public capacity were objects of public observance; and, if they acted as became their duty, the more they were observed the more their character would be illustrated and ennobled. For his part, he never was afraid of public animadversion, and desired to have his actions watched and scrutinised. With respect to the paragraphs he could not see in what respect they were either libellous or scandalous.

Mr. *Courtenay* said, that there appeared to him something extremely singular in this transaction. It had been asserted, that the honour of the House alone was to be vindicated by this prosecution. But sir Elijah Impey, when he had appeared yesterday at the bar had complained of three prints. He had, this day, produced but two, and declared himself contented with an apology for the third. It appeared, therefore, that sir Elijah was the best judge of what concerned that House; that an apology to him was the best salve for his wounded honour; and that the persons who were now to be prosecuted were only unfortunate in not knowing the placable and humane disposition of the Chief Justice. He therefore moved, "That sir Elijah Impey be again called in, and asked, whether he did not yesterday complain of another newspaper, besides those which he has now delivered in to the House?"

The question was put, and negatived.

Mr. *Courtenay* said, that since the House had thought proper to reject his motion, he found himself compelled to state to them a few observations prefatory to another motion he had to make. He found that sir Elijah, having received an apology from one of the offending printers, had, in pure gentleness of disposition, withheld all desire of punishment. He thought it was rather unfortunate that the other printers had not made the same apology; if they had, he was convinced that they would be likewise exempted from prosecution. He wished, therefore, to prevent their being subjects of the present motion. The mode in which he thought it might be effected was, an amendment to the present motion, to the purport of—that his Majesty might be addressed to direct his Attorney General to prosecute the said printers, unless they made the same apology as the other had done.

Mr. *Burke* contended that the selection which appeared in the present instance, was made with so partial a hand as to be evident to all—so evident that it must strike a thinking public with doubts, which might probably, at a future period, have no small influence on the minds of a jury. He could not coincide with Mr. Fox in his feelings concerning this vindication of the privileges of Parliament. He thought, on the contrary, that those who had overlooked them so long, had acted with con-

* See note, p. 915.

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sistency, when, in the instant they had pretended to vindicate them, they declared their readiness to transfer the task to other hands. They, good men, did not wish to hold a rod so coercive; their wish was 'volentes per populos dare jura,' and in charity they resigned the power as soon as it had been asserted. The reason assigned for this conduct, however, was somewhat unfortunate; it was, that the judges of the inferior courts were at present to be relied on for their probity and independence; but if Parliament on a future occasion should be inclined again to exert their own power, would not the reverse of their present opinion be implied from such conduct? and would it not be inferred, that the judges at such period were of course corrupt and servile? An hon. gentleman had said, with as much truth as pleasantry, that sir Elijah Impey was made conservator of the honour of that House; punishment and forgiveness followed his will, and the Commons of England were, in fact, acting instrumentally according to his pleasure: he had shielded one printer by his influence, and the culprit was forgiven: he had complained against two others, and they were to be prosecuted. How reconcilable this conduct was to decency, a judging world would determine. As to the Morning Herald, it was, however inauspicious the simile might appear, now in the situation of the unfortunate Nundcomar. Whilst that miserable victim was of use in detecting ordinary offenders, and whilst petty guilt was his object, his trespasses had full impunity; but when once he took a higher aim; when he struck at the lordliness of corruption, he was instantly selected as the object of vengeance. But, leaving allusions, if there was guilt in the publication in question, why should it fall under a partial stroke? Why not subject the business to a general inquiry? Too glaring a partiality might be productive of disagreeable effects. These could be best pointed out by the gentlemen of the long robe, who, for what reason he could not divine, attended in crowds on the present trial, though on that of Mr. Hastings there was scarce a legal band to be seen, nor a legal opinion to be had. He, for his part could not think it becoming in Parliament to transfer their power to other hands, and yet retain the odium, perhaps of too severe a judgment. He was free to suppose a circumstance which had lately occurred; for there were many who were of opinion that the judgment which lately passed on a noble lord, though it was for a libel on the Queen of France, was by much too severe; and even the gallantry of that nation, he understood was of the same opinion. It was impossible for any gentleman to sit down to his breakfast table, without meeting abuse infinitely more violent and more offensive than any thing contained in the papers now before the House: and with how little propriety could they pass over the grossest calumnies, to select that which was only to be condemned for its violation of forms. It was also to be recollected, that the learned judge in question had a particular mode of arguing;—it had been a part of his defence, that because a paper had been burnt as a libel, which condemned some part of his conduct, therefore, every part was totally free from blame. He might with equal justice infer, that if the present publication, however just in its assertion and tendency, were punished as a libel, his proceedings were *de facto* justified, and the purity of his conduct unquestionably established.

Mr. *Pitt* observed, that notwithstanding the length to which the debate had been protracted, there did not appear to be any material objection to the present motion. The arguments urged from the other side of the House, arose chiefly from a misconception of the principles laid down by his right hon. friend. No man could question the undoubted right of that House to assert their own privileges, and to punish those who should dare to infringe upon them; and he contended that no mode could be adopted more constitutional, than that now suggested. It was, indeed, true, that in times of notorious corruption, when the sources of justice were manifestly vitiated, and the Crown exercised an unlawful authority over the courts of law, the House found it expedient to take cognizance of those breaches of privilege, and to do themselves justice; but the more frequent, as well as the most advisable and constitutional method was that proposed by his right hon. friend. No man respected the privileges of that House more than he did, or would go farther to vindicate them; but he always thought that where a remedy may be obtained by common law, and in the ordinary course, it was not prudent to resort to extraordinary means; and such he must consider that to be which was insisted on by gentlemen on the other side; cases had occurred in

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which the House had committed themselves upon the very same ground with that now so much insisted on, and in which they found themselves not a little embarrassed how to act. He was ready to confess, that he did not know of any power with which that House was invested to compel the attendance of any of those parties, supposing they thought proper to refuse to appear. The libel was generally acknowledged to be very gross; nor was there any difference of sentiment, but in the most expedient mode of punishing those that were guilty of it. He could not, however, but remark, that it appeared a little extraordinary in the same persons who agreed in the condemnation of it, to adopt and sanctify the most obnoxious parts in their speeches in that House. On this occasion, they even went farther, and would fain deny all protection to the gentleman who appeared at their bar in a predicament, which of all others, entitled him to it the most. That protection he would most undoubtedly feel disposed to extend towards him, as far as a sense of justice, and his duty as a member of parliament required. By those parts of a paragraph which affected himself personally, he trusted that no gentleman would suppose he was at all influenced. He disregarded every thing of the kind so entirely, that he would not give it a moment's consideration. That was no reason, however, why he should not enforce what he conceived to be justice to the dignity and authority of the House, as well as to the individual who had exhibited the complaint. With respect to the support which he was supposed to receive from professional gentlemen, particularly those connected with government in that House, he must reprobate such insinuations as unjust, unbecoming, and calumnious. Their attendance on the occasion had been censured; but it must look a little extraordinary if they were not particularly vigilant and attentive, when the subject under discussion was an inquiry into the conduct of a person who was accused of having misconducted himself in an office of high judicial eminence and authority, of having misconstrued the acts of parliament under which he was bound to act, and of having grossly violated his duty in his judicial determinations under those acts. Thus much he thought himself bound to state, reluctant as he was, to occupy the attention of the House upon such a subject. He explained the distinction between those libels which the House was called upon to punish, and those of which sir Elijah had complained on Thursday, but which he thought proper to retract; the latter, he said, was a pamphlet, in which there did not appear to be any attack upon that House, either collectively or individually. It affected sir Elijah alone, and when he declared himself satisfied, he did not see how the House could proceed farther in the business. Far otherwise was the situation of the other two; because nothing could in his opinion be a more flagrant breach of the undoubted inherent privileges of the House, and nothing more deserving of its censure and animadversion.

Mr. *Fox* claimed the indulgence of the House, whilst he explained himself upon some of the points which had been advanced by the Chancellor of the Exchequer. And first, he felt it his duty to repel the imputation which had been cast on him and on his friends who had espoused his side of the question. He trusted that no man, who was at all acquainted with his sentiments or character, would be induced to believe that he was a friend to libels or libellers. What he had thrown out with respect to the article in question bore no such appearance, and he would repeat, that on a review of the numerous paragraphs of a personal and libellous nature, with which the press teemed every day, that would be found one of the least obnoxious, nor did he condemn it any farther than as it interfered with the proceedings of the House. With respect to the doctrine laid down, he thought it perfectly fair and rational, and the reasoning perfectly just. Thus far he adopted it, but he begged it might be fully understood he did not hold the opinion, that because members in that House might not only with propriety and strict regard to their duty, hold certain language, and declare certain sentiments upon any topic under their consideration, the public prints were warranted in giving them to the world at large. The freedom of speech he considered as the first and most essential privilege of parliament, inseparable from its dignity and well-being, and he could easily imagine many cases in which it would be a gross libel and breach of privilege in a newspaper, to publish such words as he might find it necessary to make use of in his place. Still, he continued of the same mind as to the mode of proceeding which the House ought to adopt on the present occasion. He thought that as the article

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complained of could be punishable only in as much as it was a contempt of the House in its inquisitorial capacity, no other tribunal could take cognizance of it; and upon this he wished to have the opinion of the Attorney-general, who could not, according to his notion, draw up either an information or indictment, so as to introduce the breach of privilege properly into one count. It also deserved the serious consideration of those with whom the motion originated, that the House would, by the procedure they proposed, be deprived of all power of proportioning the quantum of punishment to the nature of the offence; they would be left without redress, should the sentence inflicted be too light and inadequate, and they would be equally deprived of the power of pardon supposing that sentence too severe. For his own part, he was much averse to prosecutions for libels, chiefly because the sentence was frequently disproportioned to the crime, and this opinion was confirmed by the recent instance which had been alluded to. There did not appear to his mind a remedy which the House could apply, supposing, on conviction, the parties now complained of should be condemned to a similar punishment. He begged to clear himself from having uttered any thing by way of insinuation against that learned body which had been spoken of; it was not in the way of insinuation,—a species of accusation not very congenial to his nature,—that he threw out what he had expressed about them: he urged it as matter of direct charge, nor would he receive the very flimsy apology which had been set up in their behalf; he would not pay so ill a compliment to the lawyers of this country as to suppose they were not as competent to pronounce upon the general principles of government as they were to speak to local points or municipal customs. But, in the case of Mr. Hastings particularly, such apology could not be listened to, because it was thought a defence founded upon legal objections in all its stages. He did not mean to condemn their attendance at present as any way culpable. He meant only to show that their non-attendance on the former occasion ought to be looked upon as a dereliction of their duty. Probably the annals of the country could not furnish an instance of an important public prosecution being carried on without the concurrence and countenance of the great law officers of the Crown; and he was sorry to witness a disposition in them to interfere only when their interference was likely to check, rather than assist, those who had the public justice of their country at heart.

The *Attorney General* said, that if the prosecution was entrusted to him, he certainly should make the reflections on the proceedings of that House a material part of the information. It had often been done before; and it was well known that such reflections were deemed matters of libel in the courts of law. With regard to his having absented himself from the House during the proceedings against Mr. Hastings, that was not the time for him to assign reasons for his conduct in that particular. When the trial of Mr. Hastings was over, he would state to the House what those reasons were; and in respect to his coming down when sir Elijah was at the bar, was it either extraordinary or unbecoming for him, or any other professional man, to be anxious to hear the progress of a proceeding upon charges, accusing a judge of legal murder, upon the construction of a particular act of parliament.

After some further conversation, the first motion was agreed to. The House divided on the second, viz. "That an humble Address be presented to his Majesty, humbly desiring his Majesty that he will be graciously pleased to give directions to his Attorney-general to prosecute the author or authors, the printer or printers, and the publisher or publishers, of the said libels, in order that they may be brought to condign punishment for the same."

Tellers.

YEAS	Mr. W. W. Grenville Mr. Rolle	109
NOES	Mr. Adam Sir James Erskine	37

So it was resolved in the affirmative.

END OF VOL. XXVI.

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